

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-25017-2014

Date of decision : 10.05.2023

NARESH KUMAR

....Petitioner

Versus

PUNJAB STATE POWER CORP LTD & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sharwan Sehgal, Advocate
for the petitioner.

Ms. Ravisha Mahajan, Advocate for
Mr. Mukul Aggarwal, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari quashing the order dated 15th of October, 2014 (Annexure P-10) issued by respondent No.6.

2. The petitioner was earlier terminated from services after holding inquiry. Dispute was raised at the behest of the petitioner which was referred to the Industrial Tribunal vide reference No.2095 of 2002. The same was answered in terms of Award dated 16th of August, 2011 holding the termination of the petitioner to be bad and he was ordered to be reinstated into service with continuity of service but with 50% of the back-wages. The said Award was impugned by the respondent-Corporation by way of CWP No.5725 of 2012 which was decided vide judgment dated

18th of February, 2013 holding as under :-

“As a result, though the award is maintained for the time being but liberty is granted to the petitioner-Corporation to appoint a fresh enquiry officer immediately who would take up the thread from where the previous enquiry officer erred. Till the fresh exercise is not carried out, the 1st respondent - workman may be placed under deemed suspension, in case it is found fit and in accordance with rules of service. In case, the petitioner Corporation takes up the matter from the stage of evidence of the workman, it will endeavour to conclude the remaining enquiry within four months from the date of receipt of a certified copy of this order and on submission of the fresh enquiry report take the matter forward in accordance with law, and conclude it within the next two months. In case the workman is ultimately found innocent of the charges the impugned award will stand activated with retrospective effect. In case not, the fresh punishment order, if it is one of dismissal or any lesser punishment, will take effect prospectively, unless statutory rules of service demand otherwise.”

Before the inquiry proceedings could be concluded the petitioner retired on 30th of April, 2013 and thereafter the impugned order Annexure P-10 has been passed whereby the petitioner has been ordered to be dismissed from services.

The precise contention raised by counsel for the petitioner is that on the day the order was passed i.e. on 15th of October, 2014, the petitioner having already retired, orders of dismissed ought not have been passed.

Counsel for the respondents admits that once the petitioner has retired and the relationship of employer/employee stands snapped, the petitioner could not be ordered to be dismissed from services. However she prays for liberty to pass a fresh order in accordance with law whereby an alternate punishment can be imposed upon the petitioner.

In view of the above, order dated 15th of October, 2014 is hereby ordered to be quashed. Respondents are directed to pass order afresh in accordance with law within a period of 8 weeks from the date of receipt of certified copy of this order.

Writ petition is disposed off accordingly.

May 10, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No