

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

**CWP No.28260 of 2017 (O&M)
Date of decision : 27.03.2023**

Karamjit Kaur

..... Petitioner

versus

Pepsu Road Transport Corporation & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Vikas Chatrath, Advocate
 Mr. Rajbir Singh, Advocate
 Mr. B.P.S.Thakur, Advocate and
 Mr. Ujjwal Sharma, Advocate
 for the petitioner.

Mr. Anupam Singla, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

Petitioner herein prays for issuance of writ in the nature of certiorari seeking quashing of orders dated 24.05.2017 (Annexure P-4) and 04.01.2017 (Annexure P-2).

The petitioner is the wife of late Sh.Sukhdev Singh, who was serving as Driver with the respondent-Corporation and was charge-sheeted on 20.04.1999 for misutilizing the diesel. After enquiry, he was ordered to be terminated from services. The said order of termination was challenged by the petitioner in Civil Suit which was finally decided in RSA No.2501 of 2004 vide judgment dated 27.08.2016 holding as under :-

“It is the contention of learned counsel for the appellants that the deceased-employee has admitted his guilt before the inquiry officer as well as

reply to the second show-cause notice therefore, there is no question of interference by the trial Court. The inquiry officer must have told the deceased-employee that if he admits the charge a lenient view would be taken. Therefore, there is every possibility of admission of guilt by the deceased-employee. The deceased-employee has not taken such a contention in the reply to second show-cause notice as well as before the appellate authority. For the first time before the trial Court, he has raised this contention that the inquiry officer has pressurized him so as to admit the guilt of the alleged charges. Even otherwise the disciplinary authority should have taken a lenient view for the reasons that the deceased-employee was fair enough to admit the charges for which other than dismissal penalty could have been imposed. The fact that the deceased-employee had admitted the charge read with the new development during pendency of the litigation that he has passed away and his legal representatives have been brought on record, it is necessary to quash the order of the trial Court dated 04.11.2003 and direct the appellants to reconsider the penalty in so far as dismissal from service to that of any other penalty so as to get some retiral benefits by the legal representatives of the deceased-employee. The respondents are directed to reconsider, in so far as the penalty of termination from service is concerned, within a period of 4 months from today and impose other than termination penalty. Thereafter, monitory benefits which were due to the deceased-employee shall be released to the legal representatives within a period of 3 months.”

Pursuant to the orders passed by this Court in RSA, the order dated 04.01.2017 was passed by respondent No.2 whereby the petitioner was ordered to be reverted back/placed to the initial pay scale applicable at the time of his termination i.e. 29.03.1999. Another order came into being on 24.05.2017 (Annexure P-4) whereby apart from placing/reverting the petitioner to initial pay scale he was also ordered to be retired from services w.e.f. 12.10.1999.

Learned counsel for the petitioner submits that the punishment imposed upon the petitioner vide (Annexure P-2) is not one of the prescribed punishments in the regulations governing the service condition of the petitioner. It has been further asserted that the punishing authority having passed order

dated 04.01.2017 (Annexure P-2) had become *functus officio* and ought not to have passed another order dated 24.05.2017 that too imposing second punishment upon the petitioner that too for the same charges. It has been further contended that the order of punishment which has retrospective effect, cannot be passed. Reliance is being placed on judgments rendered by Apex Court in ***P.D.Goel Vs. High Court of Himachal Pradesh through its Registrar General, 2017 (16) SCC 390*** and ***Vijay Singh Vs. State of U.P. & ors., 2012 (5) SCC 242.***

Per contra learned counsel for the respondents submitted that the punishment imposed vide Annexure P-2 is well prescribed within the penalties as stipulated in the regulation No.20. He thus submits that it is covered under Clause iv i.e. reduction to a lower post time scale or to the lower initial pay scale in a time scale. However, learned counsel for the respondents is not in a position to dispute that the impugned order dated 24.05.2017 (Annexure P-4) would be patently barred by the principles of *double jeopardy*. He prays for liberty to pass order afresh. In the considered opinion of this Court, even if the arguments raised by Mr. Anupam Singla, Advocate with respect to prescription of reversion back to the initial pay scale being one of the prescribed punishment is accepted regulation does not prescribe that such reversion shall be to the lowest pay scale for all times to come.

In view of candid admission made by Mr. Anupam Singla, Advocate for the respondents with respect to Annexure P-4, this Court does not need to go into the argument raised *qua* the said order.

In view of the above, present writ petition is allowed.

Orders Annexures P-2 and P-4 are set aside. The liberty is granted to the respondents to pass a fresh orders in compliance with the judgment passed by this Court in RSA No.2501 of 2004 *ibid* within a period of four weeks from the date of receipt of certified copy of this order.

(PANKAJ JAIN)
JUDGE

27.03.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No