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

CWP-4595-2017

Date of decision : 10.05.2023

Dharmveer

..... Petitioner

versus

Pepsu Road Transport Corporation and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arun Singla, Advocate
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

By way of present writ petition, the petitioner seeks writ in the nature of certiorari quashing order dated 05.08.2016 (Annexure P-7) passed by the Appellate Authority, i.e. Managing Director, PEPSU Road Transport Corporation-respondent No.2 and further orders.

2. The petitioner a Conductor was issued chargesheet vide memo dated 09.09.2014 (Annexure P-1) with the following charges:-

“You Sh. Dharmveer Conductor No. F 218 is working in PRTC Budhladha Depot. On 09.08.2014 you were asked to go on route No. 224 by the Duty Inspector. You said that I will go on the route. On your asking the driver parked the bus at the counter and even the passengers sat in the bus then at once you slipped away from there and after that you

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switched off your mobile phone also. After that on the asking of D.I., Mohinder Singh Sub Inspector was sent at your place to call you, but still you didn't come. In this way by missing 62 kilo meters on route No. 224 as per route receipt you had cause a loss of Rs. 1535/- to the P.R.T.C. which is main charge against you.

Sd/-
General Manager
9/9/14

List of Charges:-

1.Main Charge

2.On 09.08.2014 even after the asking of Duty Inspector missed the timings on route 224, cause a loss of Rs. 1535/- to PRTC and non abiding of the orders of superior.

3. Dereliction in performing the duties.

4. Creating indiscipline and violating the rules.”

3. The petitioner was proceeded against by way of a regular departmental inquiry and he was found to be guilty of only charge No.4. So far as the other charge is concerned, the same were held to be not proved. The disciplinary authority while concurring with the finding recorded by the inquiry officer, saddled the petitioner with a major punishment of stoppage of three annual increments with cumulative effect. In the departmental appeal, the said punishment has been reduced to stoppage of two annual increments with cumulative effect.

4. Counsel for the petitioner has submitted that the findings recorded by the inquiry officer, even w.r.t. charge No.4 cannot be sustained, as there is no subordination proved against the petitioner. He further submits that merely for a single instance, the petitioner has been

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burdened with a major punishment and when tested on proportionality, the punishment awarded by the Appellate Authority is still disproportionate to the charge of misconduct proved against the petitioner.

5. Per contra, Mr. Sharma submits that once the petitioner has been found to be guilty of insubordination, the punishment awarded cannot be held to be excess and rather indulgence has been granted by the Appellate Authority by reducing the punishment. He further submits that so far as the plea raised w.r.t. the findings by the inquiry officer are concerned, the same are based upon evidence which has been fully discussed in the inquiry report and Writ Court cannot sit over the findings recorded by inquiry officer as a Court of Appeal as per the settled law.

6. Having heard counsel for the parties and after going through the records of the case, in the considered opinion of this Court, so far as the finding recorded by the inquiry officer is concerned, the same cannot be said to be perverse. Trite it is that this Court does not sit as Court of appeal over the findings recorded by inquiry officer. No procedural infirmity has been pointed out. Thus, findings recorded by inquiry officer are ordered to be maintained. However, this Court cannot be oblivious of the fact that the substantive charge has not been proved against the petitioner and the said finding has also been accepted by the disciplinary authority. There is no prior record of insubordination at the hands of the petitioner and thus definitely it will be a case wherein this Court while exercising writ jurisdiction need to interfere w.r.t. quantum of the punishment awarded. For a single act of

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insubordination that too for saying ‘no’ under the circumstances which have been explained by the employee, awarding major punishment would definitely be disproportionate.

7. In view of the above, order dated 05.08.2016 (Annexure P-7) is ordered to be set aside. Ordinarily, this Court should have remanded the matter back to the Appellate Authority to pass an order afresh. However, in view of the fact that the present writ petition is pending before this Court for last more than 06 years, this Court finds that it will be in the interest of justice that the punishment awarded by the Appellate Authority vide order dated 05.08.2016 (Annexure P-7) is modified to ‘stoppage of two annual increments without cumulative effect’.

8. With the aforesaid observation, the present writ petition is disposed off.

(PANKAJ JAIN)
JUDGE

10.05.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No