

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-6343-2016 (O&M)
Date of Decision :01.05.2023

Harbhajan Singh

...Appellant

Versus

**Chairman-cum-Managing Director
PSPC Limited, Patiala and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.D. Sharma, Advocate for the appellant.

Ms. Monika Chhibber Sharma, Advocate for the respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present regular second appeal, the challenge is to judgment and decree passed by the trial Court dated 17.08.2015 by which, the suit filed by the appellant-plaintiff so as to declare order dated 23.11.2012 passed by the respondent-department by which, his two annual increments were stopped with cumulative effect to be null and void ab initio, was dismissed as well as judgment and decree dated 21.07.2016 by which, an appeal preferred by the appellant-plaintiff against the judgment and decree of the trial Court dated 17.08.2015, was also dismissed.

2. Certain facts need to be mentioned for correct appreciation of the issue in hand.

3. The appellant-plaintiff was appointed as Lineman with the respondent-department in the year 1984 and was promoted as Junior Engineer on 15.04.2013. While appellant-plaintiff was posted at Khassa Sub-division as Lineman in the year 2009, his neighbour namely, Harjinder Singh s/o Mahant Singh came to him and requested him to drop him to the office of Sub-division, Chheharata, which used to fall on the route being taken by the appellant-plaintiff for his office. Appellant-plaintiff dropped the said Harjinder Singh to the office concerned and only requested the employee at the said sub-division to look into the request of Harjinder Singh, who wanted to get his electricity meter changed.

4. Thereafter, it transpired that electricity meter, which the said Harjinder Singh wanted to get replaced was tempered one. A charge sheet was issued to the appellant-plaintiff on 29.11.2009 on the allegation that the appellant-plaintiff facilitated the change of a tempered meter, which amounts to misconduct. Enquiry into the allegations were held against the appellant-plaintiff and the only allegation proved against him was that he should have informed the department concerned that the electricity meter which Harjinder Singh wanted to get replaced was tempered with.

5. In the disciplinary proceedings conducted against the appellant-plaintiff, charge qua conniving with Harjinder Singh was not proved against the appellant-plaintiff and the Enquiry Officer came to the conclusion that there is no connivance of the appellant-plaintiff with Harjinder Singh proved so as to get the faulted meter changed but enquiry officer held that appellant-plaintiff should have told the officer concerned about the tempering of the said meter.

6. On the basis of the said finding, vide order dated 23.11.2012 punishment of stoppage of two annual increments with cumulative effect was imposed upon the appellant-plaintiff.

7. As the major punishment was imposed upon the appellant-plaintiff which would affect him throughout his career including fixation of his pension, the same was challenged by the appellant-plaintiff before the Civil Court by way of filing a civil suit.

8. Keeping in view the evidence which came on record, trial Court has held that once a proper opportunity was given to the appellant-plaintiff to defend himself, the Civil Court cannot interfere with regard to the imposition of the punishment and dismissed the suit filed by the appellant-plaintiff vide judgment and decree dated 17.08.2015. Feeling aggrieved against the judgment and decree dated 17.08.2015 of the trial Court, an appeal was preferred by the appellant-plaintiff, which appeal was also dismissed vide judgment and decree of the lower Appellate Court dated 21.07.2016 hence, the present regular second appeal.

9. Learned counsel for the appellant-plaintiff submits that the connivance of appellant-plaintiff with Harjinder Singh so as to get the faulted meter changed was not proved before the Enquiry Officer and only allegation alleged against him was that department should have been informed by the appellant-plaintiff about the tempered meter, which was his duty but a major punishment was imposed upon the appellant-plaintiff and as the respondent-department has not suffered any financial loss, punishment imposed is disproportionate to the charges alleged against the appellant-plaintiff and is liable to be set aside.

10. Learned counsel for the respondent-department submits that though, connivance of appellant-plaintiff with Harjinder Singh was not proved before the Enquiry Officer but being an officer of the department, the appellant-plaintiff should have informed the department about the tempering of the meter and keeping in view the fact that department was not informed about the actual position qua the meter in question either by Harjinder Singh or by appellant-plaintiff, punishment imposed upon the appellant-plaintiff is perfectly valid and legal.

11. I have heard learned counsel for the parties and have gone through the record with their able assistance.

12. In the facts and circumstances of the present case, no financial loss has been caused to the respondent-department and the only allegation was that appellant-plaintiff should have informed the respondent-department about the tempering of the meter. Learned counsel for the respondent-department has not been able to show any evidence which came on record to prove that tempering of meter by Harjinder Singh was to the knowledge of the appellant-plaintiff. Even otherwise, once, there is no loss to the department, imposition of punishment of stoppage of two annual increments with cumulative effect is a major punishment, which causes prejudice to the appellant-plaintiff throughout his service career and even thereafter will also affect his pension and other benefits.

13. In the present case, punishment imposed upon the appellant-plaintiff is not proportionate to the charges alleged and proved against him hence, the same needs reconsideration at the hands of the respondent-department.

14. Keeping in view the facts and circumstances recorded hereinbefore, the Courts below have failed to consider this aspect while passing the impugned judgments and decrees and the same cannot be sustained. Hence, order qua imposition of punishment of stoppage of two annual increments with cumulative effect upon the appellant-plaintiff is set aside and the respondent-department is directed to pass a fresh order keeping in view the facts and circumstances of the present case and charges alleged and proved against the appellant-plaintiff .

15. Let the appropriate order be passed within a period of six weeks from the date of receipt of copy of this order after giving due opportunity to the appellant-plaintiff. In case after passing of the fresh order, appellant became entitled for any benefit, the same be released to him within a period of 08 weeks of passing of such order.

16. Present regular second appeal stand disposed of in above terms.

May 01, 2023
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No