

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 26675 of 2022

Date of Decision: 24.01.2023

Avtar Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.K.Arora, Advocate
for the petitioner(s).

Mr. D.K.Singal, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The petitioner, on attaining the age of superannuation, retired on 31.12.2018 from the post of Divisional Soil Conservation Officer. On the basis of an inquiry report, the disciplinary authority, vide order dated 17.11.2020, has imposed a penalty of 10% cut from the pension of the petitioner for two years. The appeal filed by the petitioner against the said order has also been dismissed.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

3. The operative part of the order dated 15.06.2021 passed by the Government through the Additional Chief Secretary (Development), Punjab,

Department of Agriculture and Farmers Welfare, Punjab, reads as under:-

“3. Sh.Avtar Singh, Divisional Soil Conservation Officer (Retd.) was given opportunity of personal hearing on 07.06.2021. During personal hearing, he while explaining the position verbally, also submitted his prayer in writing. He reiterated only his previous stand and has not produced any new point or new document, on the basis of which his punishment can be reduced or forgiven.

4. While rejecting the appeal of Sh. Avtar Singh, Divisional Soil Conservation Officer (Retd.), submitted through the Office of the Chief Soil Conservator, Punjab for reviewing his punishment, the punishment of imposition of 10% cut in his pension for two years is maintained.

4. Once an order imposing penalty on the employee has been passed and he assails its correctness by filing the service appeal, the Appellate Authority is required to apply its mind and pass a reasoned order. The remedy of service appeal is not a mere formality particularly keeping in view the limited scope of judicial review by the constitutional Courts. It is expected that the Appellate Authority will critically analyse the reasons given in the impugned order while considering the objections of the appellant. However, as is evident from the relevant part of the impugned order of the Appellate Authority, which has been reproduced above, it is apparent that the Appellate Authority has failed to decide the appeal in accordance with the law and well established principles of natural justice.

5. The learned State counsel, though made an attempt, however, has failed to justify the impugned order.

6. Hence, while setting aside the impugned order dated 15.06.2021, the Appellate Authority is directed to decide the appeal afresh after granting an opportunity of hearing to the petitioner. The petitioner’s claim for grant of interest on the delayed payment is kept open. Accordingly, the present writ petition is allowed.

(Anil Kshetarpal)
Judge

January 24, 2023
“DK”

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