

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

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CWP-25804-2023

Date of decision: 16.11.2023

LAKHWINDER SINGH**...Petitioner****VERSUS****PUNJAB STATE POWER CORPORATION LTD AND ORS****...Respondent****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Vijay Rana, Advocate
for the petitioner.

Mr. R.P.S. Bara, Advocate
for respondents.

DEEPAK MANCHANDA, J.(ORAL)

The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned order dated 08.05.2012 (Annexure P-3) passed by the Chief Engineer, Distribution, (North), Punjab State Power Corporation Ltd. Jalandhar, District Jalandhar /Respondent No. 3 vide which the punishment of stoppage of three annual increments with cumulative effect has been imposed against the petitioner and the order dated 19.05.2023 (Annexure P-9) passed by the Deputy Secretary, EE-2. Punjab State Power Corporation Ltd. Patiala/respondent No. 2 whereby appeal filed by the petitioner has been dismissed illegally and arbitrarily.

The factual matrix of the present case is that the petitioner was initially appointed as Lineman in the office of respondents Corporation- Punjab State Power Corporation Limited on 05.10.1985 and thereafter, he

was promoted as Junior Engineer on 02.02.2005 and after that he was promoted as Additional Assistant Engineer on 01.02.2019 and now he has been retired from service after attaining the age of superannuation on 30.03.2020. The enquiry was conducted against the petitioner and others on 25.08.2010, 30.08.2010, 13.09.2010 & 15.09.2010 and enquiry report dated 16.09.2010 was submitted vide which it has been alleged that the present petitioner, Sh. Chander Dev, Lineman and Sh. Chaman Lal, Assistant Lineman have been found guilty for unauthorised shifting the L.T. Lines and recommended the transfer of the present petitioner out of the Zone, for posting against the non public dealing seat and to issue charge sheet. On the basis of the said enquiry report dated 16.9.2010, the present petitioner was transferred vide order dated 29.09.2010 (Annexure P-1) from his place of posting i.e. East Division Khas Jalandhar under Operation Circle Jalandhar to Division under Operation Circle Muktsar for the sake of punishment.

Thereafter, respondent No. 3 issued charge sheet vide letter dated 23.02.2011 (Annexure P-2) against the petitioner on the basis of the alleged enquiry report with the charges that the petitioner has shifted the L.T. lines of 100 KVA of transformer of Amrik Singh Wala, L.T. lines of 100 KVA transformer of Kahlon Farm which were connecting to the tube wells of Rajmeet Kaur and Harbans Kaur and as such by way of doing unauthorized shifting he has caused financial loss to the department and as per the instructions of the department the review of the appeal is not liable to be considered again and the same was consigned with the approval of competent authority vide order dated 22.04.2014 (Annexure P-6). It is mentioned that the petitioner filed CWP No.25340 of 2014 and the same has been allowed by this Court vide order dated 12.07.2022 (Annexure P-7),

wherein order dated 08.05.2012 was set aside with further directions that the Appellate authority would pass a fresh speaking order within a period of 03 months after considering the appeal and affording opportunity of hearing to the petitioner but respondent authorities have not complied with the said order. Thereafter, the petitioner filed contempt petition bearing COCP No.672 of 2023, wherein, vide order dated 01.03.2023 (Annexure P-8) notice of motion was issued for 13.07.2023 and the respondents were directed to file a compliance affidavit at least one week before the next date of hearing i.e. 13.07.2023, failing which the respondent/officer concerned shall remain present before this Court. Hence, Deputy Secretary, E.E.-2, Punjab State Power Corporation Ltd., Patiala-respondent No.2, vide impugned order dated 19.05.2023 (Annexure P-9) dismissed the appeal filed by the petitioner and upheld the order dated 08.05.2012 (Annexure P-3).

Learned counsel contends that without affording any opportunity of personal hearing to the present petitioner, the Enquiry Officer conducted the enquiry that too without following the procedure under the provisions of the Punjab State Power Corporation Limited (Punishment & Appeal) Regulations 1971 & Punjab Civil Services Rules with the biased mind and against the principle of natural justice and respondent No.3 passed the impugned order dated 08.05.2012 (Annexure P-3) whereby the punishment of stoppage of three annual increments with cumulative effect had been imposed against the petitioner. He further contends that the petitioner had filed an appeal before the Appellate Authority i.e. Director, Administration, Power Com., Patiala but the same had been dismissed vide order dated 23.11.2012 (Annexure P-5/T) passed by respondent No.2 and even the review application has not been taken into consideration. He further

contends that the joint enquiry conducted against the petitioner is in violation of provisions of Rule 8.11 and 8.14 of the Punjab Civil Services (Punishment & Appeal) Rules as well as Punjab Power Corporation Limited (Punishment & Appeal) Regulations, 1971 where no opportunity to cross-examine the witnesses or to lead evidence was granted during enquiry that too without personal hearing. Learned counsel for the petitioner also contends that even while passing the impugned order dated 19.05.2023 neither the grounds taken in appeal were considered nor opportunity of hearing was granted to the petitioner by the Appellate Authority whereas, vide order dated 12.07.2022 (Annexure P-7) passed by this Court, the Appellate Authority was directed to pass a fresh speaking order by granting opportunity of hearing to the petitioner.

Per contra learned counsel for the respondents submits that inspite of several opportunities granted to the petitioner, he did not bother to file reply during enquiry proceedings. He further submits that it is wrong to say that while hearing during appeal, petitioner was not granted opportunity of hearing and refers to the orders dated 08.05.2012 as well as 19.05.2023.

I have heard learned counsel for the parties and have perused the material available on record.

After perusing the pleadings as well as documents annexed with the petition, the same show that chargesheet dated 23.02.2021 was issued to the petitioner and as per allegations contained therein petitioner illegally shifted the line of 100 KVA of Transformer of Kahlon Farm of A.P. Motor bearing Account No.TW-946 which is in the name of Rajmeet Kaur and its LT line and Dead End Poll had been shifted which was done against the H.V.D.M. Scheme and the same caused financial loss to the department to

the tune of Rs.88,173/-. It is clearly mentioned in the details of charges that the petitioner during enquiry before Principle Engineer/Enforcement-cum-Enquiry Officer admitted that he had shifted the LT lines which were connected to the Tube wells of Smt. Harbans Kaur and Smt. Rajmeet Kaur and the same was done illegally which proved his misconduct and accordingly disciplinary proceedings were initiated under Section 5 (v to ix) of the Punjab State Power Corporation Punishment and Appeal Regulation, 1971. Vide impugned order dated 08.05.2012, the punishment was awarded to the petitioner.

It is clearly mentioned in the said order that in spite of repeated opportunities granted to the petitioner where petitioner received the chargesheet on 22.03.2011 but did not file reply, thereafter, vide letter No.3902 dated 18.04.2011, final notice was also issued and the same was also received by the petitioner on 22.07.2011. Again vide letter No.8234 dated 02.09.2011, further notice for final reply was sent to the petitioner but no such reply was even filed by the petitioner. Even thereafter, Enquiry Officer after conducting enquiry submitted his enquiry report vide letter No.29 dated 02.02.2012 which was duly communicated to the petitioner vide letter No.1403 dated 13.02.2012 where 30 days time was granted against the said enquiry report and the same was duly received by the petitioner on 19.03.2012. But in spite of making such efforts, again petitioner did not bother to file reply against said enquiry report. Thereafter, the petitioner filed an appeal challenging the said order which was rejected vide order dated 23.11.2012. Thereafter, he filed review which was also rejected vide order dated 22.04.2014 being not maintainable. Aggrieved by the same, the petitioner had approached this Court by way of CWP No.25340 of 2014

which was allowed by setting aside the order dated 08.05.2012 and directed the Appellate Authority to pass fresh speaking order within a period of 03 months by affording opportunity to the petitioner. In pursuance to the orders dated 12.07.2022 and 01.03.2023 passed in COCP No.672 of 2023, a speaking order dated 19.05.2023 was passed.

As per the said speaking order, the earlier stand taken against the petitioner by the department was reiterated as he was held guilty for shifting illegal lines which caused loss of Rs.88,173/- to the department. The arguments raised by learned counsel for the petitioner are that even during enquiry proceedings petitioner was not granted opportunity of hearing, the same seems to be factually incorrect whereas it has been clearly mentioned in the order dated 08.05.2012 that in spite of repeated reminders and notices to the petitioner, he never came forward to agitate against the enquiry which resulted into final outcome against the petitioner and accordingly, the same was decided.

Even thereafter, the second argument raised by the learned counsel for the petitioner is that while deciding the appeal which culminated into impugned order dated 19.05.2023 (Annexure P-9), the petitioner was again not heard inspite of specific direction to the Appellate Authority, where the same was ordered to be decided in accordance with law after affording an opportunity of hearing to the petitioner, but perusal of the order dated 19.05.2023 shows that opportunity of hearing was afforded to the petitioner by giving personal hearing before the Director, Administrative, PSPCL, Patiala (Appellate Authority) in order to submit his contentions with regard to the charges levelled against him and that even then the petitioner did not submit any written reply and consequently, the appeal was concluded and

decided against him and the petitioner was held guilty for giving illegal benefits to the consumers and upheld the punishment of stoppage of 3 annual increments with cumulative effect.

As per the material available on record, the charges were proved against the petitioner and the allegation for not granting opportunity have not been substantiated and actually it was petitioner who in spite of granting several opportunities was not able to contest the allegations rather tried to evade the proceedings on one occasion or the other. Further as per charges as well as enquiry report the allegations, levelled against the petitioner were also duly proved.

In light of the above, this Court does not find any merit in the case of the petitioner.

Consequently, the present petition is hereby dismissed, being devoid of any merits.

November 16, 2023
Nisha Yadav

(DEEPAK MANCHANDA)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>