



CWP-1778-2020 (O&M) 1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARHCWP-1778-2020 (O&M)
Date of Decision:13.05.2024

Dineshwar Singh

.....Petitioner

versus

Uttari Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr.K.S. Banyana, Advocate for the petitioner.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Arshnoor Singh, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari*, for quashing the enquiry report dated 03.01.2017 (Annexure P-4), punishment order dated 28.01.2017 (Annexure P-6) and Appellate Order dated 08.10.2018 (Annexure P-9) passed by the respondents.

2. Brief facts of the present case are that the petitioner joined as Shift Attendant on 10.10.1997 in Haryana State Electricity Board (now Uttari Haryana Bijli Vitran Nigam Limited) (hereinafter to be referred to as “Nigam”). Thereafter the petitioner was promoted as A.S.S.A. and after that promoted as S.S.A. in the year 2007. Thereafter, he was promoted as Junior Engineer on 21.08.2015. While the petitioner was working as S.S.A. he was given an additional charge of 33 KV Sub Station Sewah which is under the division of UHBVN Panipat. A charge-sheet dated 14.10.2015 was issued to the petitioner



CWP-1778-2020 (O&M) 2

on 04.11.2015 vide Annexure P-1 with the allegations that he has committed some acts of omission and commission that a team of energy audit visited the aforesaid 33 KV Sub-Station Sewah on 26.02.2015 in order to check the category of feeder fed from them and the petitioner had reported that Nangal Kheri feeder emanating from 33 KV Sub-Station Sewah are RDS feeder and the same was also recorded running as RDS in the log-sheet whereas as per the original record 11 KV Nangal Kheri was running as complete Urban feeder. The aforesaid list of allegations against the petitioner are reproduced as under:-

“Sh. Dineshwar, SSA while entrusted the work being in-charge of 33 KV Sub Station Sewah under S/U S/Divn., UHBVN, Panipat during 26.02.2015 has committed the following acts of omissions and commissions:-

A team of energy audit visited the 33 KV Sub-Station Sewah on 26.02.2015 in order to check the category of feeder fed from them. You have reported that Nangal Kheri feeder emanating from 33 KV Sub-Station Sewah are RDS feeder and the same was also recorded running as RDS in the log sheet whereas as per original record 11 KV Nangal Kheri is running as complete Urban feeder.

- 1. Thus you have been held responsible for wrong reporting to energy audit team.*
- 2. The organization has issued directions time to time season wise distribute the power supply for RDS, Urban and AP Feeders (as per PRM). You have been held responsible for violation of the instructions by running*



CWP-1778-2020 (O&M) 3

RDS feeder as Urban feeder.

The above acts of omission & commission on the part of Sh. Dineshwar, SSA warrants strict disciplinary action against him under Rule-7 of HSEB P&A Regulation, 1990 duly adopted by the Nigam.

*Sd/-
Chief Engineer/OP
UHBVN, Rohtak*

3. The petitioner filed a reply to the aforesaid charge-sheet on dated 18.12.2015 vide Annexure P-2 in which he stated that he was given an additional charge of the aforesaid 33 KV Sub Station Sewah and in the aforesaid Sub Station 11 KV Nangal Kheri Feeder was running as RDS feeder and this fact was also recorded in the log-sheet of the Sub Station and he continuously kept aware the operators at 33 KV Sub Station Sewah by recording his instructions in the log-sheet of Sub Station that not to run feeders without schedules and if they run exceeding PRMs, they will be personally responsible. The copies of the Sub Stations log-sheet were also attached with the reply. The aforesaid reply dated 18.12.2015 filed by the petitioner (Annexure P-2) is reproduced as under:-

“To

*The Chief Engineer (OP),
UHBVNL, Rohtak.*

*Sub: Reply to Charge-sheet No.08/SS-338 dated
14.10.2015.*

Respected Sir,

*A Charge-sheet No.08/SS-338 dated 14.10.2015
has been issued to me alleging therein that a team of energy
audit visited 33 KV Sub-Station Sewah on dated 26.02.2015.*



In order to check the category of feeder fed from them. I being the incharge of 33 KV Sub Station Sewah reported that Nangal Kheri Feeder emanating from 33 KV Sub Station Sewah was RDS feeder and the same was also recorded running as RDS in the logsheet, whereas as per original record, 11 KV Nangal Kheri feeder was running as complete urban feeder and I have been held responsible for wrong reporting to energy audit them.

The aforesaid charge is totally wrong and hence denied. As a matter of fact, I was given the additional charge of 33 KV Sub Station Sewah. The 11 KV Nangal Kheri Feeder was running as RDS feeder and this very fact was also recorded in the logsheet of the sub station. I continuously kept aware the operators at 33 KV Sub Station Sewah by recording my instructions in the logsheet of Sub Station that not to run feeders without schedules and if they run exceeding PRMs, they will personally be responsible. The copy of sub stations logsheet dated 05.01.2015, 15.01.2015 and 16.01.2015 are attached herewith to prove this my version.

That I was forced to take the additional charge of 33 KV Sub Station Sewah because nobody was ready to take the charge of above mentioned substation just because of its poor condition. In this regard, I have moved an application before the SDO, UHBVNL, Panipat. Copy of letter dated



05.05.2014 is enclosed. So I remained continuously busy in the maintenance of VCB's etc. of both. Moreover no mechanic was ready to work in this substations Village Sewah just because of the fear of local residents. The local residents were used to manhandle with staff of substation when there are any disturbance due to technical fault in the supply.

That PRM might have been exceeded by the sub station operators under pressure from the notorious villagers, as most of the persons in Village Sewah and Nangal Kheri are of criminal nature, notorious type and in the habit of taking law into their hands by vandalizing the substation, as is clear from the letter No.1245 dated 14.05.2014, Memo No.SPL-1 dated 02.06.2015 and Memo No.SPL-1 dated 12.06.2015 and FIR No.703 dated 30.07.2014, u/s 148/149/332/353/186/506 IPC, P.S. Chandni Bagh, Panipat written by the then S.D.O., Sub Urban Sub Division, UHBVNL, Panipat to the police authority. The copies of these letters and FIR are attached herewith for ready reference please.

It is pertinent to mention here that I was having additional charge of 33 KV substation Sewah, besides 33 KV substation Babarpur, both the substations are situated in opposite direction to each other. One is towards Delhi side and other towards Karnal side, out of City, Panipat and it



CWP-1778-2020 (O&M)

6

take almost minimum one hour to reach from one substation to another substation due to heavy traffic rush in Panipat.

In view of the above, it is clear that I did not make a wrong reporting to the energy audit team regarding running of 11 KV Nangal Kheri feeder and the charge levelled in the chargesheet is not proved against me. It is, therefore, requested that the ibid chargesheet may kindly be dropped.

Thanking you.

Dated: 18.12.15

Yours faithfully,

Sd/-

(Dineshwar Singh)

SSA, Now J.E.

0/0 SDO 'OP' Sub Division

UHBVNL, Israna

Copy to :-

1. S.E. 'OP' Circle UHBVNL, Panipat

2. XEN, S/U, UHBVNL, Panipat.

Encls:-

All the documents are attached with the reply of charge-sheet

4. Thereafter, comments were invited from the concerned SDO of Division, Panipat, who stated and recommended that additional charge of 33 KV Sub Station Sewah was handed over to the petitioner in addition to his own duty and he was to maintain both the sub stations. He also stated that the petitioner was not interested to take over the charge of 33 KV Sub Station Sewah because of surrounding notorious area and poor conditions of sub station equipment but it was forcibly given to him. The concerned SDO also stated in the comments that



the local residents of Village Sewah/Nangal Kheri were used to run 11 KV feeders forcibly for which the matter had been taken up to the police authorities as well. He also stated that the staff at 33 KV Sub Station Sewah were employed on D.C. rates and they do not take risk to avoid man-handling and abusing since the residents of the Village Sewah and Nangal Kheri are criminal in nature and get the feeder run for some time as per their own requirements. The SDO concerned also stated in his comments that the petitioner for some time was helpless due to dual charge and worst condition of the Sub Station otherwise he would not have allowed running of 11 KV feeders beyond PRM at his level. The aforesaid SDO from whom the comments were invited, concluded that he is of the opinion that the charged official is not responsible for any violation of PRM. The aforesaid final conclusion of the aforesaid SDO is reproduced as under:

“It is correct that the charge official is some time helpless due to dual charge and worst condition of the Sub Station are as explain above otherwise he had not allow running of 11 KV feeders beyond PRM at his level.

In view of the above, I am of the opinion that the charged official is not responsible for any violation of PRM.”

(emphasis supplied)

5. Thereafter, a regular enquiry was conducted by appointing an officer of the rank of Superintending Engineer as an Enquiry Officer. Vide Annexure P-4 an enquiry report was submitted by the Enquiry Officer to the Competent Authority and it was concluded by the Enquiry Officer that the petitioner has confessed that the PRM might have been exceeded by the Sub Station operators



under pressure from notorious villagers of Village Sewah and Nangal Kheri and submitted details of the action taken by the official in this regard. The 11 KV Nangal Kheri feeder of RDS category was run as complete urban feeder by the petitioner which has caused revenue loss to the Nigam by exceeding supply hours. The Enquiry Officer also observed that the SDO S/U Panipat has given his comments in favour of the petitioner stating him to be helpless in maintaining PRM on this feeder but such misrule was not acceptable and therefore, the petitioner had failed to exercise his control over the sub station staff and RDS feeder was allowed to run as urban feeder and caused loss to the Nigam. The conclusion of the report of Enquiry Officer is reproduced as under:-

“After considering the reply dated 18.12.15 by the charged official wherein he has confessed that PRM might have been exceeded by the sub station operators under pressure from notorious villagers of Sewah and Nangal Kheri and submitted details of the action taken by the official in this regard. Energy Audit Report has clearly stated that 11 KV Nangal Kheri feeder of RDS category was run as complete urban feeder by the charged official. This way he has caused revenue loss to the Nigam by exceeding supply hours. Sh. Devesh Dahiya SDO S/U Panipat has given his comments in favour of the charged official stating him to be helpless in maintaining PRM on this feeder but such misrule is not acceptable.

In view of the above, the charged official failed to exercise his control over the sub station staff and



RDS feeder was allowed to run as urban feeder and caused loss to the Nigam.

Sd/-

*(S.E. (OP) Circle Panipat
Cum Enquiry Officer”*

6. Thereafter, a show cause notice dated 23.01.2017 vide Annexure P-5 was served upon the petitioner by the Competent Authority and after that petitioner was inflicted with the impugned order of punishment dated 28.01.2017 vide Annexure P-6 with a major punishment of stoppage of two increments with future effect. The relevant portion of the aforesaid order is reproduced as under:-

“An opportunity of personal hearing was given to the official vide this office memo No.Ch-32/SS-338 dated 23.01.2017. The official was heard on 28.01.2017. His oral and written submissions made during personal hearing, contents of enquiry report and relevant material on file were gone through. It is observed that it is an undisputed and admitted fact that PRM was not maintained on 11 KV Nangal Kheri feeder emanating from 33 KV substation Sewah when the charged official was incharge of 33 KV Substation Sewah. All his explanations are illogical and beyond any rationale. He was all the time knowing that PRMs violations are taking place but failed to suitably highlight the matter to his seniors or to control to his own level. It is nothing new to mention that villagers try to brow beat the substation operations at a number of substations but that has to be handled upfront and succeed. In such like issues are ignored that it will lead to total chaos in PRM maintenance. The quantum of financial loss which Nigam has incurred due to the act of the official for letting allow continuous and illegal urban mode of supply on RDS feeder is quite enormous and not possible to be completely



recovered. However a notional punishment for financial loss sustained and for admitted negligence in performing duties is needs to be inflicted. It is accordingly decided to inflict punishment of stoppage of two annual increments with future effect.

Accordingly, punishment of stoppage of two annual increments with future effect is hereby imposed upon Sh. Dineshwar, SSA now JE.”

7. The petitioner preferred an appeal on 15.03.2017 assailing the aforesaid punishment order dated 28.01.2017 before the Director/Tech-II, UHBVN, Panchkula-respondent No.2 and the Appellate Authority vide order dated 08.10.2018 at Annexure P-9, after giving an opportunity of personal hearing to the petitioner and considering the relevant record and also the verbal submissions of the petitioner, decided to modify the punishment awarded to the petitioner and directed that punishment of two annual increments with future effect is modified to stoppage of two annual increments without future effect. The relevant portion of the aforesaid order dated 08.10.2018 (Annexure P-9) is reproduced as under:-

“On going through all relevant records available and verbal submission of the official during personal hearing, the Director/Tech-II has decided to modify the punishment awarded to Sh. Dineshwar, JE by the C.E./Op., UHBVNL, Rohtak vide O/o No.122 dated 28.01.2017.

Accordingly, the punishment of stoppage of 2 annual increments with future effect awarded by C.E./Op., UHBVNL, Rohtak vide O/o No.122 dated 28.01.2017 to Sh.



Dineshwar, JE is modified to stoppage of 2 annual increments without future effect.

This issues with the approval of Director/ Technician-II, UHBVN, Panchkula.”

8. In this way, the Appellate Authority had modified the order of punishment from major punishment to minor punishment. Petitioner has filed the present writ petition assailing the aforesaid orders passed by the punishing authority as well as the Appellate Authority.

9. Learned counsel for the petitioner has argued that it is a case where the petitioner has been made a scapegoat by the respondent-Nigam. He further submitted that it is clear from the record as well as the comments of the SDO concerned that the petitioner was never willing to take additional charge of the aforesaid Sub Stations Sewah and Nangal Kheri but he was still given the aforesaid charge and no officer or any employee from the respondent-Nigam is ever interested to hold the charge at that particular place because of the reason that the aforesaid area is known to be a notorious area whereby the residents get the power supply in a forceful manner. He submitted that even though the sanctioned feeder was RDS but the residents of the aforesaid village make forcible interruption and get the supply for the whole time under the urban feeder channel because the hours of supply are more in the urban feeder and hours of supply are less in the RDS/Rural feeder. He further submitted that in fact the employees of the Nigam have no control over the place because of the extreme notorious activities and regarding this not only the Nigam but even the police was also aware of the same for large number of years and it is neither an unknown fact nor it has been disputed by the respondent-Nigam. He submitted



that in this way the entire responsibility fell upon the Nigam as a whole but the petitioner has been made a scapegoat out of the same and punishment has been inflicted upon him. He also submitted that the only allegation against the petitioner was that he had wrongly reported to the energy audit team who had visited the place on 26.02.2015 that the feeder was being run as RDS whereas in fact it was being factually run as urban feeder. He further submitted that there were other operators/workers at that feeder who were appointed on D.C. rates and so far as the present petitioner is concerned he was working as S.S.A. as an incharge of that place in a supervisory capacity and as an additional charge despite he being repeatedly telling the Nigam that he does not want that particular charge in that place due to the aforesaid notorious activities of the residents of the aforesaid area which was beyond the control of the staff and he had rather directed the operators to be strict according to the schedule but factually it was not possible because it was beyond the control of anybody.

10. He further contended that when the comments of the concerned S.D.O. were called for, he also stated that the aforesaid factual position as reproduced above that no fault can be attributed to the petitioner because the area where it is being operated is such like area where notorious people forcibly act upon the feeder channel and get the supply for a longer period of time. He also submitted that there is nothing on record to show that it was the petitioner himself who had entered any entry pertaining to the fact that the feeder was being run as RDS in the logbooks but only allegation against the petitioner was that he had given the wrong report to the energy audit team who visited 33 KV Sub Station Sewah on 26.02.2015. He further submitted that the petitioner had rather stated the aforesaid submission in so many words in the reply submitted to the



chargesheet dated 14.10.2015 but when the Enquiry Officer considered the aforesaid submission, he did not even consider the same in right perspective and rather even noting the comments of the aforesaid SDO, he had stated that it was a misrule, which was not acceptable as it was concluded without looking into the practical difficulty in this regard.

11. Learned counsel submitted that in the appeal filed by the petitioner before the Director-respondent No.2, he also pleaded the same thing that it was not within the control of the petitioner and that the operators were being mis-handled by the notorious people to which the learned Appellate Authority considered and modified the major punishment inflicted upon the petitioner into minor punishment and reason for taking a lenient view against the petitioner was only the aforesaid reason. He submitted that considering the facts and circumstances, even minor punishment could not have been awarded to the petitioner in this regard and therefore the orders passed by the punishing authority and that of the Appellate Authority are liable to be set aside.

12. Learned counsel also submitted that the petitioner has an unblemished record and there is no other complaint or any enquiry pending against the petitioner and because of the aforesaid reasons which were even beyond the control of the petitioner the aforesaid first time punishment order dated 28.01.2017 has been passed and the same fact has not been denied by the respondent-Nigam because respondents have only filed a short reply instead of filing a detailed reply to the present petition. He also submitted that all the averments which have been made in the present petition have not been denied by the respondent-Nigam pertaining to the aforesaid reasons as to why the feeder was actually being run as an urban feeder and therefore on this ground as well,



the impugned orders are liable to be set aside.

13. On the other hand, Mr. Puneet Jindal, Sr. Advocate with Mr. Arshnoor Singh, Advocate appearing on behalf of respondent-Nigam submitted that it is a case where because of the negligence and wrong reporting of the petitioner, revenue loss has been caused to the respondent-Nigam because the sanctioned feeder was that of RDS of the rural with limited hours to be given but the feeder was being run as urban feeder for which larger number of hours were given for electricity transmission for which although there has not been any ascertainment of how much revenue loss has been caused but certainly there was revenue loss to the respondent-Nigam. He submitted that the petitioner was the incharge of aforesaid 33 KV Sub Station Sewah. He has been held liable for the same by the punishing authority and in fact now punishment order has been passed by the punishing authority which was stoppage of two annual increments with future effect which was a major punishment has already been modified and lenient view has been taken by the Appellate Authority dated 08.10.2018 by modifying to the stoppage of two increments without future effect and therefore the petitioner should not have any grievance with regard to the same because he has been given minor punishment. Learned Senior counsel for the respondent-Nigam also contended that during the enquiry proceedings the SDO who had given the aforesaid comments which have been relied upon by learned counsel for the petitioner was called as a witness and his evidence was also recorded.

14. Learned Senior counsel also relied upon various judgments of Hon'ble Supreme Court to contend that it is a settled principle of law that once the charges have been leveled against delinquent employee are proved then it lies within the wisdom of the appointing authority/punishing authority to take a



decision as to what punishment should be imposed upon the delinquent official as per Rules and considering the nature and gravity of the charges. He further submitted that it is also a settled legal proposition of doctrine of judicial review that the Courts would not re-appreciate the evidence which has been recorded by the punishing authority or by Appellate Authority but the only consideration the Court or the Tribunal has in its judicial review is to consider that whether the conclusion is based on evidence on record and supports the findings or whether the conclusion is based on no evidence. He further submitted that it is also a settled principle of law that adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Court in writ proceedings. Learned Senior counsel made reference to judgments of Hon'ble Supreme Court in ***Prem Nath Bali vs. Registrar, High Court of Delhi and another 2015 (16) SCC 415, The High Court of Judicature at Bombay, through its Registrar versus Shashikant S. Patil, 2000 (1) SCC 416 and Nirmala J. Jhala versus State of Gujarat and another 2013(4) SCC 301*** in this regard.

15. I have heard learned counsels for the parties.

16. It is a case where the petitioner has laid challenge to the order of punishment and also order passed by the Appellate Authority. The punishing authority imposed a punishment of stoppage of two annual increments with future effect which was a major punishment and the same was subsequently modified by the Appellate Authority by reducing it to stoppage of two annual increments without future effect which was a minor punishment.

17. The respondent-Nigam has only filed a short reply in the present case and has not chosen to file a detailed reply and has not answered to each and every paragraph of the writ petition.



18. The grievance of the petitioner is that he is having unblemished record and there is no complaint pending against him and he was working as S.S.A. in the respondent-Nigam when he was given an additional charge of a particular place i.e. 33KV Sub Station Sewah to which he had stated that he did not want to take the charge of that place because the residents of that particular place forcefully interfere with the transmission of electricity and the matter is not only within the knowledge of all the higher officers of the respondent-Nigam but also in the knowledge of police for long number of years and even various letters and communications were addressed to the higher authorities by the concerned SDO which have been so mentioned in the writ petition.

19. It is the case of the petitioner where he was forcibly given additional charge of 33 KV Sub Station Sewah. The factual position that has come out in the present case is that in the aforesaid area, the local residents forcefully interrupt and interfere in the functioning of the electricity department and the aforesaid grid was in the category of RDS/Rural which was having limited hours of supply but they forcibly used to take larger number of hours which are meant for the category of urban feeder.

20. Before the enquiry commenced, the respondent-Nigam sought the comments of the concerned SDO, as reproduced above wherein he categorically stated in his comments that the petitioner was not at fault being helpless as it was because of the factual problems prevailing over the place that he could not have forcibly told residents not to make any interruption in the electricity transmission.

21. The Enquiry Officer while referring to the aforesaid comments of the SDO had only stated that it was a misrule and cannot be considered. That was



the reason as to why the Enquiry Officer observed that the charges are proved against the petitioner. Before the enquiry when the petitioner was served a show cause notice vide Annexure P-5 dated 23.01.2017, he categorically stated in his reply that this was the factual position on the ground level but the Enquiry Officer did not give much heed to the aforesaid difficulty that was being presented by the petitioner.

22. The only allegation against the petitioner was that he had given a wrong report to the energy audit team which came on 26.02.2015 but in the entire enquiry and in the punishment order, it has come up that there were entries in the logbooks which suggested that it was RDS/Rural wherein, in fact, it was used as urban feeder. However, neither in the enquiry nor in the order of punishment it has come up as to whether it was the petitioner who had entered any such entry in the log books or not. However, on the other hand it was a categoric case of the petitioner even in the reply to the show cause notice that he had been instructing the operators who were working at D.C. rates out there not to violate the schedule and in case any violation happens then they would be responsible for the same. The petitioner was incharge of the area and the logbooks were being entered on hourly basis. It has not been proved in the enquiry that the petitioner had incorporated the entries in the logbooks but on the face of it, it appears that the only allegation was that he did not give proper report to the energy audit team. The defence of the petitioner was that he could not have prevented the people of the area who are notorious and this was the fact which was known to everybody for large number of years including the higher officers of the respondent-Nigam and police. It was beyond control and not possible for anybody to have prevented the local people not to interrupt in the



electricity transmission in a forcible manner.

23. It appears that when the Appellate Authority had converted the punishment from major punishment to minor punishment by taking a lenient view, the aforesaid reason might have prevailed in his mind although the same has not been recorded in the aforesaid order.

24. The aforesaid subject matter of the present case can be seen from a macro level. It is a case where it has not been disputed by anybody that the aforesaid area is known to be a notorious area where the aforesaid 33 KV Sub Station Sewah is situated. It is also not disputed by anybody that those people were forcefully interfering in the transmission of the electricity by increasing number of hours. The petitioner in his writ petition has given the elaborate details of the same especially in para 11 of the petition wherein he stated that the petitioner was forced to take additional charge of 33 KV Sub Station Sewah because nobody was ready to take charge of the aforesaid Sub Station because of its poor condition and even no mechanic was ready to work in the aforesaid Sub Station Village Sewah because of the fear of the local residents. The local residents were used to manhandle with staff of sub station when there was any disturbance due to technical fault in the supply. He also categorically submitted in the petition that the petitioner had taken the charge of 33 KV Sub Station Sewah in addition of charge already held by the petitioner of 33 KV Sub Station, Babarpur. Although he has also submitted that SDO, Sub Urban, Sub Division, Panipat, made several efforts by taking the matter with the Competent Authority of the Nigam i.e. Executive Engineer, Sub Urban Division, Panipat and Superintending Engineer, Operation Circle, Panipat to get all the faulty equipment of the Sub Station repaired and proper posting of regular staff at the



Sub Station but no heed was paid by the Competent Authority. In the petition, he also specifically stated that it is an admitted position that 33 KV Sub Station Sewah, is situated in the area of Village Sewah and Nangal Kheri and residents of area have criminal background due to which no officer/official is safe and even nobody can perform their duty as per Nigam instructions because there is direct interference with the functioning of the Sub Station staff by the consumers of the area and the supply of their area cannot be shut down even for a moment. It was further categorically stated in the writ petition that the Government of Haryana as well as the Police Department of Haryana Government have already declared the Village Sewah and Nangal Kheri as a sensitive area as the residents of the aforesaid villages are of criminal background. Further it has also been specifically stated in the petition that the respondent-Nigam had not taken any sincere effort to protect the staff posted in shift duty at 33 KV Sub Station Sewah, even after repeated requests and demands of the staff which has been highlighted by the SDO, Sub Urban, Sub Division, Panipat. Number of letters which have been issued in this regard highlighting the aforesaid conditions of the aforesaid area were also described in the writ petition. Repeatedly in the petition, it has been stated that it is very much in the knowledge of the SDO, Sub Urban, Panipat, XEN, Sub Urban Division, Panipat as well as Superintending Engineer, Operation Circle, Panipat that the staff posted at the 33 KV Sub Station Sewah, was not safe during the duty hours and the anti-social elements and some notorious youngmen used to come to the Sub Station and used to manhandle the duty staff and forcibly compell them to provide the supply according to their requirement.

25. However, the respondent-Nigam did not choose to file a detailed reply



to the petition in which categorical averments were made but have chosen to file a short written statement only to the extent of justifying the punishment orders. This Court is of a considered view that in the absence of any rebuttal from the respondent-Nigam, the aforesaid averments made by the petitioner with regard to the condition of the area pertaining to safety etc. will be deemed to be admitted.

26. The problem of the area was not confined to the petitioner and it was a problem which was being faced by the Nigam as a whole in its entirety. All the higher officers of the respondent-Nigam were already aware of the aforesaid issue with regard to the law and order problem of the area and therefore, this Court is of a considered view that it was a collective responsibility of the respondent-Nigam as a whole and not of a particular employee. There is nothing on record to show as to what steps the respondent-Nigam has taken to prevent such a problem either on their own or with the cooperation of the police. There is no doubt that with the forcible change of schedule by the local residents, there had been transmission of electricity for larger number of hours which may have caused loss to the revenue of the respondent-Nigam but it will not mean that the petitioner was solely responsible for the same. Once a big problem was being faced by the respondent-Nigam as a whole then it was an institutional responsibility to have prevented the same but it is very unfortunate that the respondent-Nigam has made the petitioner as a scapegoat and under the guise of stating that loss has been caused to the respondent-Nigam, punishment order has been imposed upon the petitioner instead of taking measures to prevent such an abuse by the local residents and a junior employee has been victimized by the respondent-Nigam. This Court is of a considered view that the approach adopted by the respondent-Nigam is highly condemnable and deprecable. The decision



CWP-1778-2020 (O&M) 21

has been taken at the level of Superintending Engineer, Chief Engineer and Director of the respondent-Nigam who are the most responsible senior officers but became insensitive to the situation and made the petitioner a scapegoat.

27. So far as the the judgments which have been relied by learned Senior counsel for the respondent-Nigam is concerned, there is no dispute with regard to the proposition of law that normally the Court should not interfere in the finding of fact recorded by the Disciplinary Authority or by the Appellate Authority and would not re-appreciate the evidence. However, in para No.26 of the aforesaid judgment in ***Prem Nath Bali's case (supra)*** cited by leaned Senior counsel for respondent-Nigam it had rather been observed that such a power is exercised when the Court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscious of the Court or when it is found to be in contravention of the Rules. This Court is of a considered view that the action of the respondent-Nigam in victimizing and making scapegoat a junior employee was arbitrary and has shaken the conscious of this Court. The responsibility was of the entire Nigam as a whole and not of one employee.

28. In view of the above, the present petition is allowed. The impugned order of punishment dated 28.01.2017 (Annexure P-6) and order dated 08.10.2018 passed by the Appellate Authority (Annexure P-9) are hereby quashed and set aside. The petitioner shall be paid all consequential benefits arising out of quashing of aforesaid orders forthwith alongwith interest @6% per annum.

29. Considering the facts and circumstances of the present case, the



CWP-1778-2020 (O&M) 22

petitioner shall be entitled for costs which are assessed as Rs.25,000/-(Rupees Twenty Five Thousand only) and the same shall be paid by the respondent-Nigam within a period of three months from today.

**(JASGURPREET SINGH PURI)
JUDGE**

13.05.2024

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No