



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

CWP-7028-2021

Reserved on : 12.09.2024

Date of decision : 17.09.2024

Satinder Kumar

.....Petitioner

Versus

Pepsu Road Transport Corporation and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Kuldeep, Advocate for
Mr. Tribhawan Singla, Advocate for the petitioner.

Mr. Rakesh Roy, Advocate for
Mr. Abhilaksh Gaind, Advocate for the respondents.

NAMIT KUMAR, J.

1. The petitioner has invoked the jurisdiction of this Court by filing the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, quashing the order dated 10.12.2018 (Annexure P-6), passed by respondent No.1, whereby the punishment already awarded to the petitioner, vide order dated 03.03.2010, has been kept intact and he has not been held entitled to any other benefit for the suspension period, except 50% subsistence allowance, which have already stood paid to the petitioner and the judgment and decree dated 26.02.2018 (Annexure P-5), passed by learned District Judge, Patiala.

2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner joined the services of Pepsu Road Transport Corporation, Patiala (hereinafter referred to as 'the Corporation') on 05.12.2000 as Conductor. On 18.06.2009, the

petitioner was on duty on route No.792 at the bus started the journey from Chintpurni and when the bus reached at Phagwara Bus Stand, the petitioner boarded some passengers in the bus and was returning the balance amount to the passengers. When a Supervisor/Checker entered the bus and alleged that he had caught 02 passengers travelling without tickets from Hoshiarpur to Phagwara and further alleged that 05 to 06 passengers were issued tickets from Phagwara whereas, they were travelling from Hoshiarpur. On the basis of report of the Supervisor/Checker, the petitioner was placed under suspension vide order dated 29.06.2009 and thereafter, he was issued charge-sheet dated 06.07.2009. After holding regular departmental inquiry against the petitioner, vide order dated 06.11.2009, punishment of stoppage of three annual increments with cumulative effect was imposed upon the petitioner and further it was held that he will not be entitled for any further benefit for the suspension period and will be reinstated w.e.f. 09.11.2009. Against the said punishment order, the petitioner preferred an appeal before the appellate authority and the same was partly accepted vide order dated 03.03.2010, whereby the punishment was reduced to stoppage of one annual increment with cumulative effect. The orders dated 06.11.2009 and 03.03.2010 passed by the punishing and appellate authority, respectively, were challenged by the petitioner before the Civil Judge (Junior Division), Patiala, by filing Civil Suit No.89RT/26.03.2013 titled as 'Satinder Kumar Vs. The Pepsu Road Transport Corporation, Patiala and others', which was dismissed vide judgment and decree dated 28.05.2015. Aggrieved against the said judgment and decree, the petitioner filed appeal before the learned

District Judge, Patiala, which was partly allowed vide judgment and decree dated 26.02.2018. The concluding para of the said judgment reads as under :-

“Consequently, in the light of above discussion, the appeal is partly allowed with costs and the suit of the plaintiff stands partly decreed for declaration to the effect that the impugned orders Ex.PW1/2 and Ex.PW1/3 are liable to be set aside and are hereby set aside only to the extent of imposition of the double punishment upon the plaintiff “of stoppage of increments with cumulative effect and also withholding of wages during the suspension period”. However, the concerned punishing authority of the plaintiff/appellant is directed to pass fresh order as regards the quantum of punishment is concerned, after giving him opportunity of being heard and to proceed further from the stage of conclusion of the enquiry proceedings, holding him guilty of the charges, in accordance with law. Decree sheet be prepared. Trial court record be sent back. Appeal file be consigned to the record room.”

In compliance with the abovesaid judgment and decree, the matter was reconsidered by the Managing Director, P.R.T.C., Patiala, vide impugned order dated 10.12.2018, the punishment reduced vide order dated 03.03.2010 was kept intact and it was also held that the petitioner shall not be entitled for any other benefit for the suspension period except 50% subsistence allowance which have already been paid to him.

3. Learned counsel for the petitioner submits that the impugned order dated 10.12.2018 is totally illegal, arbitrary and unjust

as respondent No.1 without appreciating the facts as well as the mandate

given by learned District Judge, Patiala, passed the impugned order on the basis of legal opinion of Senior Advisor of the Corporation. He further submits that the petitioner has been awarded two punishments “stoppage of one annual increment with cumulative effect” and “the petitioner has been denied full pay and allowance for the suspension period”, whereas with regard to one charge, one can be awarded only one penalty instead of two penalties.

4. Per contra, learned counsel for the respondents, while referring to the averments made in the reply filed on behalf of the respondents, has opposed the claim of the petitioner and submits that the impugned order dated 10.12.2018 is perfectly legal and valid.

5. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

6. Undisputed facts of the case as noticed above are that the petitioner was placed under suspension on 29.06.2009 followed by issuance of charge-sheet dated 06.07.2009 and after holding regular departmental inquiry, punishment of stoppage of three annual increments with cumulative effect was imposed upon the petitioner vide order dated 06.11.2009 and it was further held that he will not be entitled for any other benefit except the subsistence allowance which has already been paid to him and he will be reinstated in service w.e.f. 09.11.2009. The said punishment was modified by the appellate authority vide order dated 03.03.2010, whereby the punishment was reduced to stoppage of one annual increment with cumulative effect.

Both these orders were challenged by the petitioner before the Civil Court, Patiala, by filing a suit for declaration and mandatory injunction

which was dismissed vide judgment and decree dated 28.05.2015 and appeal filed against the said judgment and decree was partly allowed vide judgment and decree dated 26.02.2018, whereby the impugned orders dated 06.11.2009 and 03.03.2010 were set aside only to the extent of imposition of double punishment upon the plaintiff “of stoppage of increments with cumulative effect and also withholding of wages during the suspension period”. However, the punishing authority was directed to pass a fresh order as regards the quantum of punishment, after giving an opportunity of being heard. In compliance to the said order, the matter has been re-examined vide order dated 10.12.2018 and the punishment of stoppage of one annual increment with cumulative effect has been maintained and it has further been held that the petitioner shall not be entitled for any other benefit except subsistence allowance which has already been paid to the petitioner.

7. The only point on which the impugned order dated 10.12.2018 has been challenged before this Court is that the petitioner has been awarded two punishments i.e. “stoppage of one annual increment with cumulative effect” and “he has been denied full pay and allowance for the suspension period”. Learned counsel for the petitioner has placed reliance upon Regulation 20 of the Pepsu Road Transport Corporation (Conditions of Appointment and Service) Regulation, 1981 (hereinafter referred to as ‘the 1981 Regulation’) which reads as under :-

“20. Penalties :

The following penalties may for sufficient reasons be imposed on the employees, namely :-

- (i) *Censure;*
- (ii) *Recovery from pay or security during service, or after termination of services, the whole or part of any pecuniary loss caused to the corporation by negligence or breach of order;*
- (iii) *Withholding of increments;*
- (iv) *Reduction to a lower post time scale or to a lower stage in the time scale;*
- (v) *Withholding of wages for the suspension period.*
- (vi) *Fines : Fines shall be imposed in accordance with the provision of the Payment of Wages Act, 1936.*
- (vii) *Removal from service which does not disqualify from future employment.*
- (viii) *Dismissal from service which disqualify from future employment under the Corporation.”*

8. Perusal of the abovesaid Regulation 20 would show that the petitioner has not been awarded two punishments. The only punishment awarded to the petitioner is of stoppage of one annual increment with cumulative effect. Denial of pay and allowances for the suspension period from 29.06.2009 to 09.11.2009 does not amount to award of second punishment as he has already been paid 50% subsistence allowance for the suspension period and it is not a case of denial of wages during the suspension period. Since the petitioner has been awarded major punishment of stoppage of one annual increment with cumulative effect, the suspension period cannot be treated as duty period and, therefore, the petitioner cannot be paid full pay and allowances for the suspension period. This view is supported by the

judgment of Hon'ble Supreme Court in ***State of Punjab and others Vs. Surjit Singh Conductor :1996 (2) SCT 609***, wherein it has been held as under :-

“xx xx xx xx xx

2. *The only question is : whether the disciplinary authority could withhold payment of arrears of salary for the period of suspension from September 5, 1986 to April 2, 1987, namely, the date of suspension till the date of passing of the final orders?*

3. *The respondent was a conductor. A chargesheet was issued imputing misconduct in not issuing the tickets. The Enquiry Officer, though had not recorded finding of proof of misconduct, the disciplinary authority did not agree with the Enquiry Officer's report and has given reasons in support of the disagreement, recorded a finding as to how the charges have been proved by giving opportunity to the respondent to show why the punishment of stoppage of increments and also with-holding payments of arrears of salary as punishment. The respondent had submitted his explanation. On consideration thereof, the disciplinary authority imposed stoppage of three annual increments with cumulative effect and also with-held payment of arrears of salary for the suspension period. The trial Court dismissed the suit. On appeal, it was reversed and the suit was decreed. In S.A. No.208/93 dated November 25, 1993, the High Court of Punjab & Haryana confirmed the appellate decree.*

4. *The appellate decree envisages confirmation of the stoppage of three increments with cumulative effect but interfered with the order of with-holding payment of arrears of salary as a measure of punishment. The appellate Court held that the disciplinary authority had no power to impose the said punishment.*

5. We have heard counsel on both sides. It is an admitted position that the charges have been proved. Once the charges have been proved, it is settled law that the disciplinary authority is empowered to impose appropriate punishment. The rule indicates with-holding of payment of arrears of salary as one of the modes of punishment. Under these circumstances, the disciplinary authority had rightly exercised its power. The civil Court had no jurisdiction to substitute the punishment imposed by the disciplinary authority. The civil Court is not a court of appeal in civil suits.

xx xx xx xx xx”

The abovesaid judgment was also followed by this Court in ***Pepsu Road Transport Corporation Vs. Gopal Krishan : 1998(3) SCT 88.***

9. In view of above factual position and settled law, finding no merit in the instant petition, the same is hereby dismissed.

17.09.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No