

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

**CWP-6666-2022 (O&M)
Date of Decision:19.07.2024**

Rajmohan Singh

.....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. A.K. Viridi, Advocate for the petitioner.

Mr. Dhananjay Mittal, 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 and setting aside the charge sheet dated 17.10.2014 (Annexure P-1), comments of respondent No.5 dated 02.03.2015 (Annexure P-3), comments of respondent No.4 dated 27.03.2015 (Annexure P-4), order dated 19.05.2020 (Annexure P-5) and order dated 03.03.2022 (Annexure P-6) and order dated 28.12.2021 (Annexure P-7).

2. Learned counsel for the petitioner submitted that it is a case where the petitioner has been awarded the punishment of compulsory retirement vide Annexure P-5 dated 19.05.2020 by respondent No.3. He submitted that the order of punishment is an erroneous order and is totally against the law because at the time when enquiry was conducted, the Executive Engineer had exonerated the



Superintending Engineer, Administration had passed the aforesaid order who was inimical to the petitioner. Thereafter, the petitioner filed a writ petition bearing CWP No.19616 of 2021 before this Court which was dismissed as withdrawn on 28.09.2021 vide Annexure P-13 on the ground that against the aforesaid order of compulsory retirement, the petitioner had not availed the remedy of appeal, therefore, petitioner had instructed his counsel to withdraw the aforesaid writ petition to avail the remedy of appeal against the impugned order. Learned counsel for the petitioner submitted that thereafter the petitioner had filed an appeal before the Appellate Authority i.e. the Chief Engineer but he did not decide the aforesaid appeal of the petitioner and vide order dated 03.03.2022 (Annexure P-6) the petitioner was informed by the under Secretary/HR-II for SE/Administration DHBVN, Hisar, that the competent authority has considered the appeal and the same has not been found feasible for acceptance. He further submitted that the aforesaid order at Annexure P-5 by which punishment of compulsory retirement has been inflicted upon the petitioner and order at Annexure P-6 are liable to be quashed.

3. On the last date of hearing i.e. 04.07.2024 during the course of arguments, a query was raised to learned counsels for the parties as to whether any order has been passed or not by the appellate authority in the appeal filed by the petitioner because Annexure P-6 is only an intimation by the office of Superintending Engineer and therefore it was directed that the entire original record be produced before this Court pertaining to the appeal filed by the petitioner.

4. Today Mr. Dhananjay Mittal, learned counsel for the respondents submitted that the entire record pertaining to the appeal has been brought before



authority on the record. He was again asked as to whether appeal is still pending or not to which he submitted that although the appeal was filed by the petitioner but the same has not been decided and there is no order on record that the appeal has been decided.

5. Order dated 03.03.2022 at Annexure P-6 is reproduced as under:-

“To

*Sh. Raj Mohan Singh, LDC,
S/o Late Sh. Rajender Pal Singh,
VPO- Bapora,
Tehsil & Distt.Bhiwani
Mob-9812447211*

Memo No.Ch-114/NG/P.546 Dated:-03.03.2022

Subject:- Appeal under Regulation-9 of the DHBVN Employees (P&A) Regulation-2019 for quashing the office order No.53/SE/Admn. Dated 19.05.2020.

This is with reference to your communication dated 28.12.2021 on the subject cited matter.

In this context, it is intimated that the competent authority has considered your aforementioned appeal and the same has not been found feasible for acceptance.

This issues with the approval of CE/HR & Admn.DHBVN, Hisar.

*Under Secretary/HR-II
For SE/Administration
DHBVN, Hisar”*

6. A perusal of the aforesaid order would show that under

Secretary of the respondent-Nigam on behalf of the Superintending
SHWETA
2024.08.05 13:16
I attest to the accuracy and
authenticity of this document



Engineer/Administration, DHBVNL, Hisar has written to the petitioner that his appeal has been considered and the same has not been found feasible for acceptance. On the basis of the records produced today and the statement made by learned counsel for the respondent-Nigam, the aforesaid factual position has been cleared that the appeal has not been decided as yet. Therefore, *ex-facie* the aforesaid intimation which has been sent on behalf of the Superintending Engineer vide Annexure P-6 was factually incorrect and wrong.

7. Learned counsel for the petitioner at this stage specifically submitted that in fact the order of punishment inflicted upon him was a result of a *mala fide* specially on the part of the Superintending Engineer/Administration who had conveyed the aforesaid intimation to the petitioner vide Annexure P-6 and he was the punishing authority. He further submitted that punishment order which has been passed by the Superintending Engineer is also factually incorrect. He further contended that the aforesaid Superintending Engineer whose name is Rajnish Garg has since been promoted to the post of Chief Engineer/Administration and in case the appeal is to be heard then it will be heard by the aforesaid person and as such the same will not be in accordance with law because he is already biased against the petitioner and he has written a wrong letter to the petitioner based upon incorrect facts vide Annexure P-6. He further submitted that it will be a futile exercise in case the appeal is heard by the same officer who is now holding the post of Chief Engineer/Administration and being Appellate Authority, the appeal would go to him for hearing and in view of the aforesaid bias, it will not be in accordance with law. He submitted that any other officer or Senior Officer may be directed to hear the appeal of the petitioner so that at least his appeal can be heard in an unbiased manner.

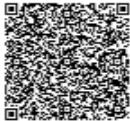


considered view that although the Appellate Authority of the petitioner would be the Chief Engineer, Administration, but in view of the peculiar facts and circumstances of the present case wherein the Chief Engineer is the same person who was the punishing authority of the petitioner and had written the aforesaid letter vide Annexure P-6 to the petitioner and it will not be appropriate that the same authority hears the appeal of the petitioner. Therefore considering the peculiar facts and circumstances, it is directed that the appeal of the petitioner which is stated to be pending shall be heard by the Managing Director himself.

9. The petitioner has already filed his appeal alongwith the grounds of appeal, he shall be at liberty to raise any other ground by filing supplementary grounds of appeal.

10. The Managing Director of the respondent-Nigam will consider and decide all the grounds taken by the petitioner which are on record and in case the petitioner files any supplementary ground(s) then the same shall also be heard and considered after affording an opportunity of hearing to the petitioner or his counsel and thereafter will pass a speaking order on the appeal while considering all the grounds being taken in accordance with law and within a period of three months from today.

11. From the aforesaid facts and circumstances it is *ex-facie* clear that the aforesaid letter dated 03.03.2022 vide Annexure P-6 was based upon incorrect facts and false information was given to the petitioner and the same has now been so candidly submitted by learned counsel for the respondents based upon the original records which he brought in the Court today, the aforesaid action of the Superintending Engineer/Admn. is highly deprecated. The petitioner shall be entitled for exemplary costs assessed as Rs.1,00,000/- which shall be paid to the petitioner within a period of three months from today. The aforesaid costs shall be



paid to the petitioner by the respondent-Nigam at the first instance and thereafter the Managing Director of the Nigam shall fix the accountability of the official/officer(s) in this regard in accordance with law. Liberty is also granted to the Managing Director to take appropriate action against the Superintending Engineer or any other official/officer(s) who had given incorrect information to the petitioner vide Annexure P-6.

(JASGURPREET SINGH PURI)
JUDGE

19.07.2024
shweta

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