

2024:PHHC:054233

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7225 of 2024 (O&M)
Date of decision: 22.04.2024

Jaswant Singh

....Petitioner

Versus

Punjab State Power Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

NAMIT KUMAR J. (Oral)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari, for quashing the charge-sheet dated 05.03.2020 (Annexure P-2); order dated 12.04.2021 (Annexure P-5) whereby deduction of 5% cut in pension for a period of 01 year has been imposed upon the petitioner and the order dated 21.12.2021 (Annexure P-7) vide which the appeal filed by the petitioner has been rejected.

2. The brief facts, as have been pleaded in the petition, are that the petitioner retired from service as Junior Engineer on attaining the age of superannuation on 31.10.2019. While he was posted at Naushehra Pannuan Sub-Division, District Tarn Taran, charge-sheet dated 05.03.2020 (Annexure P-2) on the basis of enquiry report dated 26.11.2019, was issued to him by the Assistant Manager/H.R., Border Zone, Amritsar (respondent No.3) wherein it was alleged that one

2024:PHHC:054233

Sukhwinder Singh son of Dilbagh Singh of village Dargapur had paid a process fee of Rs.500/- vide B.A.-16 No.50/50771 dated 25.03.2019 for shifting out 11 KV Thathian Rural Line from over his house. No estimate was prepared by the petitioner for shifting out of 11 KV Thathian Rural Line from over the house and Nishan Singh, Assistant Lineman took Rs.25000/- from Sh. Sukhwinder Singh and shifted out 11 KV line from his house with the help of private labour, without preparing any estimate/depositing the amount. PSPCL Department suffered financial loss because of non-preparation of estimate by the petitioner.

3. The petitioner submitted reply dated 07.03.2021, to the said charge-sheet and vide order dated 12.04.2021 (Annexure P-5) it was held that the petitioner had failed to discharge his duties in his supervisory capacity and penalty of 5% cut in pension for a period of 01 year was imposed. The appeal preferred by the petitioner against the said order has been rejected by the Appellate Authority vide order dated 21.12.2021 (Annexure P-7) and the said orders have been impugned in the present writ petition.

4. The petitioner had earlier filed a petition i.e. CWP No.16567 of 2022, which was withdrawn on 30.11.2022, with liberty to file afresh one on the same cause of action with better particulars and now the instant writ petition has been filed.

5. Learned counsel for the petitioner submits that the petitioner was not having any knowledge about the shifting of the said line and Sh. Nishan Singh, Assistant Lineman, with the help of a private

2024:PHHC:054233

labour shifted the said line by taking Rs.25,000/- and the petitioner is not responsible for the same and the impugned order of punishment has been passed in violation of principles of natural justice.

6. I have heard learned counsel for the petitioner and perused the record.

7. The impugned order of punishment dated 12.04.2021 (Annexure P-5) whereby punishment of 5% cut in pension for a period of 01 year, has been imposed and the effect of the said punishment was over after a period of 01 year i.e. on 11.04.2022, however, the said order is now being challenged in the present writ petition after a period of about 03 years. Although the earlier writ petition filed by the petitioner was withdrawn by him on 30.11.2022, and even thereafter also, a period of about 01 year and 06 months has elapsed. A perusal of the charge-sheet shows that the same has been issued after a fact finding enquiry was held by the department on the complaint submitted by one Sukhwinder Singh son of Sh. Dilbag Singh, wherein he stated that he had deposited Rs.500/- as processing fee at Sub-Division Naushehra Pannuan Sub Division, but Jaswant Singh – petitioner had not made deposit estimate for shifting the 11 KV Thathian Rural Line and Nishan Singh ALM had told him that he should give him Rs.25,000/- and he will remove 11 KV line which passes through his house. Sh. Sukhwinder Singh gave him Rs.25,000/- and Sh. Nishan Singh, Assistant Lineman, hired a private person and 11 KV line over his house was removed. Since the petitioner was working as Junior Engineer in the said Sub Division and he was the supervisory officer of the Assistant

2024:PHHC:054233

Lineman, therefore, he has rightly been held responsible for causing financial loss to the department PSPCL and punishment of 5% cut in pension for a period of 01 year, has been imposed upon him. The said punishment is neither harsh nor disproportionate to the charge levelled in the charge-sheet. The appeal preferred by the petitioner has already been considered by the Appellate Authority and finding no merit, the same has been rejected.

8. The Hon'ble Supreme Court in ***“Union of India and others vs P. Gunasekaran”***, 2015(1) SCT 5, has examined the issue of judicial review and scope of interference in the disciplinary proceedings. The operative part of the said judgment, reads as under:-

“13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No.I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether :

a. the enquiry is held by a competent authority;

b. the enquiry is held according to the procedure prescribed in that behalf;

c. there is violation of the principles of natural justice in conducting the proceedings;

d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and

2024:PHHC:054233

merits of the case;

e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;

h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

i. the finding of fact is based on no evidence.

Under Article 226/227 of the Constitution of India, the High Court shall not:

(i). re-appreciate the evidence;

(ii). interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii). go into the adequacy of the evidence;

(iv). go into the reliability of the evidence;

(v). interfere, if there be some legal evidence on which findings can be based.

(vi). correct the error of fact however grave it may appear to be;

(vii). go into the proportionality of punishment unless it shocks its conscience.

*14. In one of the earliest decisions in **State of Andhra Pradesh and others v. S. Sree Rama Rao, AIR 1963 Supreme Court 1723**, many of the above principles have been discussed and it has been concluded thus:*

"7.... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence,

2024:PHHC:054233

which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

15. In *State of Andhra Pradesh and others v. Chitra Venkata Rao*, (1975)2 SCC 557, the principles have been further discussed at paragraph-21 to 24, which read as follows :

*"21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in **State of A.P. v. S. Sree Rama Rao**. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule*

2024:PHHC:054233

be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in ***Railway Board, representing the Union of India, New Delhi v. Niranjana Singh*** said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any

2024:PHHC:054233

evidence or it can be said that no reasonable person could have reached such a finding. In Niranjana Singh case this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shut-down of an air compressor at about 8.15 a.m. on May 31, 1956. This Court said that the Enquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Enquiry Committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point

2024:PHHC:054233

*and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. See **Syed Yakoob v. K.S. Radhakrishnan**.*

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

*These principles have been succinctly summed-up by the living legend and centenarian Justice V. R. Krishna Iyer in **State of Haryana and another v. Rattan Singh, (1977) 2 SCC 491**. To quote the unparalleled and inimitable expressions:*

"4..... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case-law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity,

2024:PHHC:054233

exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. ..."

*16. In all the subsequent decisions of this Court upto the latest in **Chennai Water Supply and Sewarage Board v. T.T. Murali Babu, 2014(2) S.C.T. 193 : (2014)4 SCC 108**, these principles have been consistently followed adding practically nothing more or altering anything."*

9. The aforesaid judgment has been followed by the Division Bench of this Court in **“Union of India and others vs Sushil Kumar Vashisht and another”, 2016(4) SCT 77.**

10. In view of the foregoing reasons, I am dissuaded to interfere in the matter as there is no illegality or perversity in the impugned orders and the writ petition is accordingly, dismissed in limine.

(NAMIT KUMAR)
JUDGE

22.04.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No