

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**
Neutral Citation No. 2024:PHHC:038800-DB

(105) **LPA-1909-2023 (O&M)**
Decided on : 19.03.2024

Pepsu Road Transport CorporationAppellant(s)
Versus
Dharmveer & othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-4797-LPA-2023

Application for condonation of delay of 15 days in re-filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the General Manager. Delay of 15 days in re-filing the appeal is condoned.

CM stands disposed of.

CM-4799-LPA-2023

Application for condonation of delay of 112 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the General Manager. Delay of 112 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1909-2023 (O&M)

Consideration in the present letters patent appeal is sought of the judgment of the learned Single Judge dated 10.05.2023 passed in **CWP-4595-2017 ‘Dharmveer Vs. Pepsu Road Transport Corporation and others’**. Vide the said judgment, the learned Single Judge had modified the punishment order to the extent that instead of stoppage of two annual increments with cumulative effect, the same had been reduced to stoppage of two annual increments without cumulative effect. The reason which weighed with the Learned Single Judge to interfere in the punishment order was that there was no insubordination at the hands of the employee and the Court found that it was a fit case to exercise the writ jurisdiction, as major punishment had been imposed disproportionate to

the charge as such. Keeping in view the fact that the matter was pending for the last more than 6 years, the Learned Single Judge had modified the order while exercising its writ jurisdiction, as noticed above instead of remanding it to the punishing authority.

2. Mr. Aggarwal has vehemently submitted that it was beyond the purview of judicial review and, therefore, the order of the Learned Single Judge is not liable to be sustained.

3. The Learned Single Judge has noticed that the loss which was caused to the appellant-employer from the workman, who was a conductor was only of Rs.1,535/-. It was in such circumstances, major punishment of stoppage of three annual increments with cumulative effect had been imposed. In the departmental appeal, the punishment had been reduced to stoppage of two annual increments with cumulative effect. It is, thus, apparent that the punishment was excessive as such as noticed by the Appellate Authority. As noticed the loss which has been caused is not of that quantum, which the employer had suffered to punish the employee with stoppage of two annual increments with cumulative effect for the rest of his career.

4. In such circumstances, the finding which has been recorded by the Learned Single Judge is in the consequence of the law laid down by the Apex Court in **B.C. Chaturvedi Vs. Union of India and others, (1995) SCC (6) 749**, wherein the Apex Court has held that the interference by the Writ Court is permissible when the punishment is found shockingly disproportionate. Relevant portion of the judgment reads as under:

"18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate

authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases. impose appropriate punishment with cogent reasons in support thereof."

5. The said view was subsequently followed in **Shri Bhagwan Lal Arya v. Commissioner of Police Delhi & others, 2004 (4) SCC 560**, by noticing that to shorten the litigation and in view of the time already lost, the punishment of removal of service could be altered by the Court.

6. Resultantly, the finding recorded by the Learned Single Judge while exercising its writ jurisdiction does not suffer from any infirmity and the present letters patent appeal is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

19.03.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	√Yes	No
Whether Reportable :	Yes	√No