



CWP-13694 of 2021 :1:

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

**CWP-13694 of 2021 (O&M)
Reserved on: 24.03.2025
Pronounced on : 28.04.2025**

GURKIRPAL SINGH RANDHAWA

..... Petitioner

VERSUS

**PUNJAB STATE POWER CORPORATION LIMITED AND
ANOTHER**

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Mr. Rajinder Singh Sidhu, Advocate
for the petitioner.

Mr. Sehajbir Singh, Advocate;
Mr. Baltejpal Singh Walia, Advocate and
Mr. Karishma Sharma, Advocate
for the respondents.

Deepinder Singh Nalwa, J.

1. Challenge in the present writ petition is to the orders dated 31.08.2017, 01.12.2017 (Annexure P-14) and 18.06.2021 (Annexure P-19) whereby, the respondents have imposed the punishment of stoppage of two increments with cumulative effect upon the petitioner, and the appeal against the above order of punishment has been dismissed.

2. Brief facts of the case are that the petitioner is working in the Punjab State Power Corporation Limited (hereinafter referred to as 'Corporation') on the post of Additional Superintending Engineer. It



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transpires from the facts of the case, that there was a checking on 21.06.2013 by the Enforcement Department in regard to meter No.MS/76/650. The Enforcement Department found that the electric connection was sublet to some unknown persons and there was illegal consumption of electricity to the tune of Rs.8,52,807/-. Provisional notices were sent to the consumer to deposit the above said amount. The consumer filed an objection to the above said demand raised by the Corporation, which was considered and vide order dated 28.03.2014, the penalty of amount was reduced to Rs.98,479/- instead of Rs.8,52,807/-.

3. A complaint was filed by one Balwinder Singh (son of the account holder's of the disputed connection) levelling allegations of embezzlement against the petitioner. The petitioner duly filed reply to the above said complaint. A preliminary inquiry was conducted by the Deputy Chief Engineer (Distribution). In the preliminary inquiry, the charges levelled against the petitioner were found to be established. The above said preliminary inquiry report was duly considered by the Deputy Secretary Technical-I. The petitioner was placed under suspension vide order dated 17.04.2014. A charge sheet was issued to the petitioner on 21.05.2014. In the charge sheet, the charges levelled against the petitioner were that the petitioner was responsible for misleading and harassing the complainant as well as for misappropriating an amount of Rs.1,76,700/- in cash as a bribe. It was also the charge that the petitioner was responsible for damaging the reputation of the department. The petitioner duly filed reply to the above said charge sheet. The contentions raised by the petitioner in the reply was



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not found to be creditworthy by the competent authority and consequently, a regular departmental inquiry was initiated against the petitioner.

4. The inquiry officer held the charges proved against the petitioner vide inquiry report dated 25.11.2016, the punishing authority accepted the findings of the inquiry officer and vide order dated 31.08.2017, the punishing authority imposed the punishment of stoppage of two increments with cumulative effect and the period of suspension from 18.04.2014 to 15.06.2014 was treated as a non-duty period, vide order dated 01.12.2017.

5. Aggrieved against the above said orders dated 31.08.2017 and 01.12.2017, the petitioner filed an appeal dated 14.12.2017 before the Appellate Authority. The above said appeal was dismissed by the Appellate Authority vide order dated 04.02.2019 (Annexure P-15). The relevant extract of the order is reproduced hereunder:-

“The Committee of Whole Time Directors after considering the details given in the agenda passed the following resolution:-

RESOLVED THAT considering the gravity of the charges leveled, facts of the case, magnitude of punishment awarded, appeal of Er. Gurkirpal Singh Randhawa Addl. S.E. (Code No. 5856) against office order No. 555/D-10393/T-1 Dated 31.08.2017 and office order No. 755 dt. 1.12.17 and views of Director/Finance given after personal hearing to the officer, the Committee found the officer guilty and punishment awarded was in order and there is no merit in his appeal and hence rejected the appeal.

FURTHER RESOLVED THAT approval be and is hereby accorded to convert suspension period of Er. Gurkirpal Singh Randhawa Addl. S.E. (Code No. 5856) from 18.04.2014 to 15.06.2016 as LOKD.”

As per above, Punjab State Power Corporation Limited uphold the punishment of forfeiture of two annual increments with future effect given to Er. Gurkirpal Singh Randhawa Addl. S.E. Code No. 105856



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vide office order No. 555 Dated 31.08.2017 and the appeal filed by the official hereby stands dismissed”

6. The petitioner, aggrieved against the above said order dated 04.02.2019 (Annexure P-15), filed a Civil Writ Petition No.24269 of 2019 in this Court, which was partly allowed vide order dated 04.09.2019 and the order dated 04.02.2019 passed by the Appellate Authority was set aside. The matter was remanded back for fresh consideration by the Appellate Authority with a direction that after considering all the submissions and contentions raised by the petitioner, a final order be passed within a period of two months from the date of receipt of certified copy of the order and after affording an opportunity of personal hearing to the petitioner. The relevant extract of the order passed by this Court on 04.09.2019 (Annexure P-16) is reproduced hereunder:-

“The appeal has been dealt with by the Appellate Authority and has been rejected in the following terms:-

RESOLVED THAT considering the gravity of the charges leveled, facts of the case, magnitude of punishment awarded, appeal of Er.Gurkirpal Singh Randhawa Addl. S.E. (Code No.105856) against office order No.555/D-10393/T-1 Dated 31.08.2017 and office order No.755 dt.1.12.17 and views of Director/Finance given after personal hearing to the officer, the Committee found the officer guilty and punishment awarded was in order and there is no merit in his appeal and hence rejected the appeal.

FURTHER RESOLVED THAT approval be and is hereby accorded to convert suspension period of Er.Gurkirpal Singh Randhawa Addl. S.E. (Code No.105856) from 18.04.2014 to 15.06.2016 as LOKD.”

As per above, Punjab State Power Corporation Limited uphold the punishment of forfeiture of two annual



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increments with future effect given to Er.Gurkirpal Singh Randhawa Addl. S.E. Code No.105856 vide office order No.555 dated 31.08.2017 and the appeal filed by the official hereby stands dismissed.

Sd/-
Joint Secretary/Technical-1,
PSPCL, Patiala.

Suffice it to observe that the order dated 04.02.2019 (Annexure P-15 colly) passed by the Appellate Authority is cryptic and non-speaking.

The question as regards reasons to be assigned by the Appellate Authority even while affirming the order passed by the Punishing/Disciplinary Authority came up for consideration before the ***Supreme Court in Chairman Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & others, 2009 (5) SLR 512*** and it was observed as under:-

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of **S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594**, is that people must have confidence in the judicial or quasi-judicial authorities.

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

No doubt, in **S.N. Mukherjee's case (supra)**, it has been observed (vide para 36) that:

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it

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cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.”

Perusal of the impugned orders at Annexure P-15 colly, passed by the Appellate Authority would clearly reveal that the submissions/grounds raised by the petitioner in the appeal have not even been adverted to much less dealt with. The impugned orders passed by the Appellate Authority, as such cannot sustain.

For the reasons recorded above, the present writ petition is partly allowed and the order dated 04.02.2019 (Annexure P-15 colly) passed by the Appellate Authority, is set aside. The matter is remanded back for consideration afresh at the hands of the Appellate Authority and after taking into account all the submissions and contentions raised by the petitioner in the appeal. Let the final order upon re-consideration be passed within a period of two months from the date of receipt of certified copy of this order and after affording to the petitioner an opportunity of personal hearing.

Instant writ petition is disposed of in the aforesaid terms.”

7. In pursuance to the order passed by this Court on 04.09.2019 (Annexure P-16) in Civil Writ Petition No.24269 of 2019, the respondents passed an order dated 17.02.2020 (Annexure P-17) whereby, the appeal filed by the petitioner was partly allowed to the extent that the period of suspension from 18.04.2014 to 15.06.2014 was regularized and was treated as leave of the kind due. The relevant extract of the above said order is reproduced as under:-

“The Committee of Whole time Directors after considering the details given in the agenda found that the officer has been given personal hearing by Director/Commercial in compliance of the Hon'ble Court order dated 04.09.19 and passed the following order:-

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Resolved that considering the gravity of the charges leveled, facts of the case, magnitude of punishment awarded, appeal of the officer against o/o dt. 31.08.17 and o/o No.755 dt. 01.12.17 and views of Director/C given after personal hearing to the officer, the Committee found the officer guilty and the officer cannot be allowed to cross examine the complainant at this stage and there is no merit in submissions and contentions raised by him in his appeal, hence accepted partially to the extent that the suspension period of the officer from 18.04.14 to 15.06.16 is regularized as LOKD"

Suspension period of officer from 18/04/2014 till 15/6/2016 is regularized as LOKD

This has been issued with the approval of WTD.

Sd/-

*Joint Secretary/Technical-1,
PSPCL, Patiala."*

8. As the above said order dated 17.02.2020 (Annexure P-17) was a non-speaking order, the petitioner again filed a civil writ petition bearing CWP-9233 of 2000 challenging the orders dated 31.08.2017 and 17.02.2020. The above said writ petition was allowed on 12.01.2021 (Annexure P-18) and the impugned order dated 17.02.2020 was quashed. The matter was again remitted to the Appellate Authority for deciding the appeal afresh, after giving an opportunity of hearing. It was also clarified in the above said order that if a non-speaking order is passed once again, the punishment imposed upon the petitioner will be liable to be quashed. The relevant extract of the order is reproduced hereunder:-

"3. The Appellate Authority has now passed order dated 17.02.2020 (Annexure P-17), the operative part of which is as under:-

"Resolved that considering the gravity of the charges leveled, facts of the case, magnitude of punishment awarded, appeal of the officer against o/o dated 31.08.17 and o/o No.755 dt. 01.12.17 and views of Director/C given after personal hearing to

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the officer, the Committee found the officer guilty and the officer cannot be allowed to cross examine the complainant at this stage and there is no merit in submissions and contentions raised by him in his appeal, hence accepted partially to the extent that the suspension period of the officer from 18.04.14 to 15.06.16 is regularized as LOKD”

4. *Having heard learned counsel for the parties and having perused the record, I am of the opinion that the aforementioned order cannot be sustained in law. The operative part of the impugned order reproduced hereinabove does not fulfill the requirement of passing of a speaking order. The Appellate Authority is the Committee of whole time Directors of respondent No.1 and it needs no guidance regarding the requirements of a speaking order. Assuming, that the only argument raised was that the appellant was not permitted to cross-examine the witnesses during the inquiry, the Appellate Authority was required to consider the legal effect of this fact. It is not sufficient to observe that opportunity of cross-examination cannot be granted at this stage.*

5. *Accordingly, the writ petition is allowed and impugned order dated 17.02.2020 (Annexure P-17) is quashed. The matter is again remitted to the Appellate Authority for deciding the appeal afresh after granting an opportunity of hearing to the writ petitioner. It is clarified that in case a nonspeaking order is passed once again, the punishment imposed upon the petitioner would be liable to be quashed.”*

9. In pursuance to the order passed by this Court on 12.01.2021 (Annexure P-18), the respondents have passed an order dated 18.06.2021 (Annexure P-19). The relevant extract of the order is reproduced below:-

“There were charges of corruption on the officer and same were proved in the department inquiry. Dy. CE/East Ludhiana vide his office memo No. 7067 dated 22.08.13 gave clarification for dealing above case under CC No. 37/213. The officer joined CMC Division, Ludhiana on 22.10.13 and did not acted on the plea that the above letter Dy. CE East, Ludhiana not available in the office and meanwhile he kept on bargaining with the consumer and once the deal was reached, he dealt the case with the reference of above letter on dated 28.03.14. The contention of the officer that on alleged date of 21.03.2014 he was away to Head Office



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Patiala had also been examined in the department inquiry and WTDs is of the considered view that distance Ludhiana and Patiala is a short span and lorry log book did not display the timing of his stay out of Ludhiana as proved in department inquiry. The officer was on tour on dated 21.03.14 but it cannot be denied that on the day, he was not present at Ludhiana since morning till next day; neither any cogent evidence was proved before inquiry officer or appellate authority by the officer.

Another contention raised that during preliminary inquiry as well as regular inquiry he was not given any opportunity to cross examine the complainant cannot be considered at this stage but the inordinate delay in dealing the case and affidavit filed by the complainant is itself sufficient to prove wrong intentions of the officer. Therefore, keeping in view the details provided in agenda and contentions submitted by the officer before WTDs passed the following resolution.

RESOLVED THAT approval be and is hereby accorded to set aside the Office order No. 134/D-10393/T-1 dated 17.02.2020 as per Hon'ble Court order dated 12.01.21 against CWP No. 9233/2020.

FURTHER RESOLVED THAT considering the gravity of the charges leveled, facts of the case, magnitude of punishment awarded, appeal of Er. Gurkirpal Singh Randhawa, Addl. SE (Code No. 5856) against office order No. 555/D-10393/T-1 dated 31.08.2017 and office order No.755 dated 01.12.17 and views of WTDs after awarding personal hearing to the officer, the Committee found the officer guilty and punishment awarded was in order and there is no merit in his appeal and hence rejected the appeal.

FURTHER RESOLVED THAT approval be and is hereby accorded to convert suspension period of Er. Gurkirpal Singh Randhawa, Addl. SE (Code No. 5856) from 18.04.2014 to 15.06.2014 as LOKD."

As per facts mentioned above, to set aside the Office order No.134/D-10393/T-1 dated 17.02.2020 of Punjab State Power Corporation Limited Patiala and punishment of stoppage of two annual increments with future effect has been upheld treated period of suspension (18.04.14 to 15.06.14) as LOKD and order has been passed for rejecting the appeal of this employee.

It has been issued with the approval of Whole Time Directors.)."



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01.12.2017 and 18.06.2021, the petitioner has again filed the present writ petition.

11. Learned counsel for the petitioner submits that a perusal of the order dated 18.06.2021 (Annexure P-19) passed by the Appellate Authority would show that in fact, contentions raised by the petitioner in the appeal have not been taken into consideration while deciding the appeal. In fact, the learned counsel for the petitioner contends that the order dated 18.06.2021 (Annexure P-19) is similar to the order passed on 17.02.2020 (Annexure P-17) that was quashed by this Court, and as such, the impugned orders are also liable to be quashed.

12. Learned counsel for the respondents submits that the order dated 18.06.2021 passed by the Appellate Authority is in accordance with law. The petitioner was given a personal hearing and the contentions raised by the petitioner in the appeal were considered before passing the order.

13. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

14. A perusal of the order dated 18.06.2021 would show that no reasons have been given by the Appellate Authority while considering the appeal as to why, the contention raised by the petitioner in the appeal have not been found to be creditworthy. It is well-settled law that while considering an appeal, Appellate Authority has to give reasons which shows application of mind. Giving reasons while considering the appeal and passing an order minimise the chances of arbitrariness. Therefore, it is an essential requirement of the law that at least some brief reasons must be



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disclosed while deciding the appeal. The above said view has been taken by Hon'ble the Supreme Court in case of **Ram Phal v. State of Haryana; 2009 (1) SCC (L&S) 645**. The relevant observations made by the Hon'ble Supreme Court in para 6 of the judgment in Ram Phal's case (supra), which can be gainfully followed in the present case, read as under:-

"The duty to give reasons for coming to a decision is of decisive importance which cannot be lawfully disregarded. The giving of the satisfactory reasons is required by the ordinary man's sense of justice and also a healthy discipline for all those who exercise power over others. This Court in Raj Kishore Jha v. State of Bihar has stated:

19... Reason is the heartbeat of every conclusion. Without the same, it becomes lifeless."

15. Again, while dealing with the question of demarcation between the administrative orders and quasi-judicial orders and the requirement of adherence to natural justice as well as recording reasons, the Hon'ble Supreme Court laid down the broad guidelines in this regard, in the case of **Kranti Associates Private Limited and another Vs. Masood Ahmed Khan and others: (2010) 9 SCC 496**. The relevant observations made in para 47 of the judgment, which aptly apply in the present case, read as under:-

"47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.



- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial or even administrative power.
- (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.
- (f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- (g) Reasons facilitate the process of judicial review by superior courts.
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.
- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.
- (k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.



(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* EHRR, at 562 para 29 and *Anya v. University of Oxford*, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

16. Same view was held in judgment of Hon'ble the Supreme Court in *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and others: 2009(4) SCC 240: [2009(5) SLR 512 (SC)]*. The relevant portion of said judgment is reproduced as under:-

"5. In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal but that does not mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in Prabhu Dayal Grover case has itself stated that the appellate order should disclose



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application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons of all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority.

6. The view we are taking was also taken by this Court in *Divl. Forest Officer Vs. Madhusudhan Rao (vide SCC para 20: JT para 19)* and in *M.P. Industries Ltd. Vs. Union of India, Siemens Engg. and Mfg. Co. of India Ltd. Vs. Union of India (vide SCC para 6: AIR para 6)*, etc.

7. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

8. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in *S.N. Mukherjee Vs. Union of India*, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimises the chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

9. No doubt, in *S.N. Mukherjee* case, it has been observed that: (SCC p. 613, para 36)

"36. ... The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

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The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.

10. For the same reason, the decision of this Court in *State of Madras Vs. A.R. Srinivasan* (vide AIR para 15) has also to be understood as explained by us above.

11. Hence, we agree with the High Court that reasons should have been contained in the appellate authority's order but we cannot understand by the High Court has set aside the order of the disciplinary authority, in addition to setting aside the Appellate order.”

17. A perusal of the order dated 18.06.2021 passed by the Appellate Authority would show that similar order has been passed as was passed on 17.02.2020. As no reasons have been given by the Appellate Authority in its order dated 18.06.2021 in regard to effect of non-examination of witness, i.e., the complainant, while dismissing the appeal of the petitioner, respondents once again has passed a non-speaking order, affirming mechanically the earlier order passed without addressing the petitioner's contention which cannot be sustained in the eyes of law. Even otherwise also, a perusal of the facts of the case would show that the inquiry was initiated on the basis of complaint filed by Balwinder Singh (son of the account holder's of the disputed connection). It is an admitted fact that the petitioner was not given any opportunity to cross-examine the complainant



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which amounts to violation of principle of natural justice. If a finding is based on a statement not tested by cross-examination, the same cannot be relied upon to impose punishment. Taking into consideration the above said facts, inquiry held against the petitioner cannot be said to be held in a fair and proper manner.

18. In view of the above, taking into consideration the order passed by this Court on 12.01.2021 passed in Civil Writ Petition No.9233 of 2020, the impugned orders dated 31.08.2017, 01.12.2017 and 18.06.2021 are hereby quashed. The petitioner is held entitled for restoration of the withheld increments with all consequential benefits, to be paid within a period of two months from the date of receipt of a certified copy of this order. The respondents shall pay costs of Rs.10,000/- to be deposited by the respondents with the Poor Patients Welfare Fund, PGIMER, Chandigarh within the above said period.

19. The writ petition is allowed in above said terms.

20. Pending applications, if any, also stand disposed of accordingly.

**(DEEPINDER SINGH NALWA)
JUDGE**

28.04.2025

Rimpal

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No