



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

**LPA No.2920 of 2018 (O&M)
Date of Decision: 21.01.2025**

Satbir Singh

...Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Naveen Daryal, Advocate,
for the appellant.

Mr. Deepak Balyan, Addl. AG, Haryana.

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SANJEEV PRAKASH SHARMA J. (Oral)

Learned counsel for the appellant submits that the appellant-writ petitioner had filed a writ petition before this Court seeking quashing of the order dated 07.08.2015 whereby punishment was awarded to recover an amount equal to stoppage of one annual increment from his pensionary benefits. He submits that such a punishment could not have been awarded and no recovery could have been effected from his pensionary benefits. Learned counsel for the appellant further submits that the writ petitioner was subjected to a charge-sheet dated 16.12.2013 under Regulation 7 of the Haryana State Electricity Board Employees (Punishment and Appeal) Regulations, 1990 (for short, 'Regulation 7 of 1990'). In terms of the Regulation 7 of 1990 procedure for inflicting major penalty has been laid



down and therefore, after the writ petitioner submitted his reply, he was required to be given an opportunity to put up his defence. Inquiry officer was required to be appointed and thereafter, the punishment could have been awarded. However, the respondents have directly punished him with passing order of recovery for an amount equal to stoppage of one annual increment from his pensionary benefits. The action is therefore contrary to the principles of natural justice and also in violation Regulation 7 of 1990. Learned counsel submits that the recovery could have been effected as per provisions of Rule 2.2(b) of the Punjab Civil Services Vol. 2 Part 1 as he has not been held guilty in the departmental proceedings as no departmental proceedings were conducted. The recovery could also not have been made from the pension in terms of the judgment passed by the Apex Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) etc. 2015(4) SCC 334***. Learned counsel submits that the submissions were advanced before the learned Single Judge who has failed to take notice of the arguments in the correct perspective and erroneously dismissed the writ petition. Consequently, the present appeal before us.

2. Per-contra, learned counsel appearing for the State has submitted that while a charge-sheet was issued to the writ petitioner for major penalty after having considered the reply was decided to avoid him a minor penalty and amount equal to stoppage of one annual increment was directed to be recovered from his pensionary benefits. Full fledged inquiry was therefore not required to be conducted. The order cannot be said to be unjustified. He submits that so far as the provisions of Rule 2.2(b) (*supra*) are concerned, the same would not apply as such to the present proceedings.



3. We have considered the submissions. Regulations 1990 (*supra*) provide under Regulation 7 procedure for inflicting major penalty and as per Regulation 7 (2) (a) following procedure has to be adopted at the initial stage:-

“7.PROCEDURE FOR INFLICTING MAJOR PENALTIES:

(1) Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850; no order of inflicting a major penalty, shall be passed against a person to whom these Regulations are applicable unless he has been given a reasonable opportunity of showing cause against the action purposed to be taken in regard to him.

(2) (a) The grounds on which it is proposed to take such action, shall be reduced to the form of definite charge or charges which shall be communicated in writing to the persons charged, together with a statement of allegations on which each charge is based alongwith a list of documents and witness to be relied upon and of any other circumstances which it is proposed to take into consideration in passing orders on the case and he shall required within a reasonable time to state in writing whether he admits the truth of all if any, of the charges, what explanation of defence, if any, he has to offer and whether he desires to be heard in person. If he so desires, or if the authority empowered to inflict major penalty upon him so directs, an enquiry shall be held at which all evidence(s) shall be heard as to such if the charges as are not admitted.”

4. From the perusal of the aforesaid provisions, it is apparent that the disciplinary authority may propose to initiate proceedings for inflicting



major penalty and for the said purpose, it shall reduce to the form of definite charge or charges and communicate the same to the concerned delinquent person charged who would submit his reply or explanation of defence whereafter the authority empowered to inflict the major penalty may direct an inquiry to be held and evidence to be collected. However, at this stage the authority concerned cannot be said to be powerless to take a decision only on the basis of the reply and impose a minor penalty.

5. We have noticed that so far as procedure for minor penalty is concerned under Regulation 8, the only requirement is to ask the employee to make a representation against the show cause notice hence if the respondents have taken a decision to impose a minor penalty the procedure, as laid down under Regulation 08 read with Regulation 7(2)(a), stands fully complied with and it cannot be said that the order has been passed in violation of principles of natural justice.

6. So far as the provisions of Rule 2.2 (b) of the Punjab Civil Services Vol.2 Part 1 is concerned, it is the right available to the Government to order recovery from a pension of the whole or part on the pecuniary loss or to take decision of withholding permanently or for a specified period pension if the concerned pensioner is found to be guilty in departmental or judicial proceedings. Thus, a reduction of pension power is available once the disciplinary authority has reached to the conclusion that minor delinquency has been committed for which a minor punishment is required to be awarded and the writ petitioner has already attained superannuation, recovery of an amount equivalent to stopping one increment from the pension can be said to be a course which can be adopted by the disciplinary authority and the order cannot be said to be in any manner illegal or unjustified.

7. We therefore find though for the reasons recorded herein when the order of punishment does not warrant any interference. We accordingly dismiss the appeal.
8. All pending application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

January 21, 2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

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