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

CWP-9350-2022 (O&M)**Date of Decision : 23.02.2026****NARINDER NATH SUDAN****.....Petitioner**

VERSUS

STATE OF PUNJAB AND OTHERS**.....Respondents****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Jaspal Singh Maanipur, Advocate,
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Post-retirement, the petitioner was reverted from the post of Junior Engineer to the post of Pump Operator by the Controlling Authority i.e. respondent no.2, vide order dated 12.04.2022 (Annexure P-18), on the ground that the diploma in Mechanical Engineering was obtained by him, while attending regular classes, that too, without obtaining leave from the department concerned.

2. Through the instant petition, under Article 226 of the Constitution of India, the aforesaid order has been challenged, primarily, on the ground that the post-retirement, there exists no relationship of master-servant between the the petitioner and respondents-department,



therefore, the authority concerned does not vest with any power directing reversion of the petitioner to the post of Pump Operator.

3. Learned counsel for the petitioner, at the first instant, draws attention of this Court towards letter dated 29.05.2008 (Annexur P-3) to submit that the petitioner pursued higher studies in Mechanical Engineering Diploma, only after obtaining requisite permissions from the competent authority, and this material aspect has not been considered while passing the impugned order.

4. He further draws attention of this Court towards the written statement filed on behalf of respondents no.1 to 3-department, wherein, it has been specifically, stated that the petitioner has pursued his diploma, without any discontinuity in his official duties, and, there was no complaint, whatsoever, with respect to his work, and he was paid salary accordingly. He next submits that once the department is taking such a stand, there remains no justification for the impugned order to withstand the test of legality.

5. He finally submits that, though, respondents-department, tried to take refuge under the provisions of Rule 2.2 of the Punjab Civil Services Rules, Volume-II, however, reversion of an employee squarely falls under the category of major penalty, whereby, without serving a chargesheet, the punishment of reversion cannot be imposed upon the petitioner.



6. Learned State counsel, on the other hand, takes a serious objection to the submissions, as made by learned counsel for the petitioner. He submits that it is a case, wherein, by misleading the respondents-department, the petitioner had obtained promotion to the post of Junior Engineer. It is contended that the petitioner while being on duty, pursued his regular higher studies, which is not possible under any circumstances. Therefore, the respondents-department, has rightly found the promotion of the petitioner to the post of Junior Engineer having been obtained by suppression of material facts. Therefore, the order/letter granting permission to pursue higher studies, is in nullity, and can be rectified at any stage, and for which, there is no requirement to serve a charge-sheet upon the petitioner, before passing the impugned order.

7. For a better appreciation of the controversy involved, it is imperative to have a glimpse upon the facts of the instant *lis, qua* which there is no wrangle amongst the parties concerned.

i. The petitioner joined the respondents-department on daily wage basis w.e.f. 20.03.1986, as a Pump Operator; and his services were regularised w.e.f. 18.05.2001. Thereafter, he was promoted to the post of Junior Engineer, w.e.f. 16.03.2012. Finally, upon attaining the age of superannuation, the petitioner retired on 30.06.2020.

ii. During his service tenure as Pump Operator, the petitioner, moved an application 13.05.2008 (Annexure P-2),



seeking permission to pursue higher studies during service, i.e. diploma in Mechanical Engineering, to enhance his qualification. Accordingly, the permission was granted by the respondents-department, however, with a condition that the petitioner would not be entitled for any leave for pursuing such higher studies, and his duties would not be affected, following such diploma course.

iii. The petitioner completed his diploma course on 29.04.2011 (Annexure P-4), and on the basis of the said diploma, he sought promotion to the post of Junior Engineer, however, his case was not considered. He even served a legal notice dated 07.10.2014, which was also not decided.

iv. Armed with diploma of Mechanical Engineering, the petitioner had approached this Court by way of Civil Writ Petition, bearing No.2288 of 2015, for seeking relief, however, during the pendency thereof, he was promoted to the post of Junior Engineer w.e.f. 14.01.2016.

v. In the year 2019, a complaint dated 16.01.2019, was received, alleging therein, that the petitioner during his duty period without availing any leave, had pursued regular diploma course, and also drawn salary from the department concerned.



vi. On the complaint (*supra*), to ascertain the veracity of allegation levelled therein, the Superintending Engineer, Water Supply and Sanitation Circle, Hoshiarpur, was appointed as an Enquiry Officer, vide letter dated 13.06.2019. The petitioner duly joined the enquiry proceedings, and after conclusion of enquiry the Enquiry Officer submitted his report vide letter dated 26.02.2020 (Annexure P-10) to the office of Chief Engineer (South) (respondent no.2).

vii. As per the Enquiry Report, the petitioner acquired diploma from the period, August 2007 to May 2010, during his duty period, and no proof of taking leave during the said period, was produced by the petitioner. Further, that the petitioner took admission in a regular college, without obtaining any permission from the department concerned, in this regard. In absence of any proof of any log book about the working time of the petitioner, the Enquiry Officer concluded that the diploma of Mechanical Engineering, was obtained by him, by suppressing material facts.

viii. On the basis of the Enquiry Report (*supra*), as approved by the Government of Punjab as Show Cause Notice dated 24.08.2020 (Annexure P-11), was served by the competent authority, under Rule 2.2.B of the Punjab Civil



Services Rules, Volume-II, to which, a reply dated 08.09.2020 (Annexure P-12), as submitted by the petitioner, which was found to be unsatisfactory by the respondents. Thereafter, giving due opportunity of hearing to the petitioner, the disciplinary authority reverted him to the post of Pump Operator from Junior Engineer.

8. On examining the facts, as narrated above, following points transpires to this Court:-

- i. That the petitioner, post-retirement reverted to the post of Pump Operator, from the post of Junior Engineer, and the reversion to a lower rank can be declared as a major penalty, under Rule 5 of the Punjab Civil Services Rules, Volume-II;
- ii. That even no charge-sheet was served upon the petitioner, prior passing of the impugned order;
- iii. That Rule 2.2 (b) of Punjab Civil Services Rules, Volume-II, only protects the rights of a department for withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, in case, in a department or judicial proceeding, an employee is found guilty of grave misconduct or negligence during the period of his service, including the service rendered upon re-employment upon retirement.



9. For ready reference, Rule 2.2(b) of the Punjab Civil Services Rules, Volume-II, is extracted hereinafter:-

“b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if, in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that-

(1) Such departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

(2) Such departmental proceedings, if not instituted while the officer was in service whether before his retirement or during his re-employment-

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

(3) No such judicial proceedings, if not instituted while the officer was in service, whether before his retirement or during his re-employment shall be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution; and

The Public Service Commission should be consulted before final orders are passed.

Explanation.-For the purpose of this rule-



(a) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date; and

(b) a judicial proceeding shall be deemed to be instituted-

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer on which the Magistrate takes cognizance. is made; and

(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the court.

Note:-As soon as proceedings of the nature referred to in the above rule are instituted, the authority which institutes such proceedings should without delay intimate the fact to the Accountant-General. The amount of the pension withheld under clauses (b) should not ordinarily exceed one-third of pension originally sanctioned, including any amount of pension to be so withheld, regard should be had to the consideration whether the amount of the pension left to the pensioner in any case would be adequate for his maintenance.”

10. This Court has examined the action of the respondents-department, and on the anvil of the above rules, and finds that the respondents-authorities, have exceeded to its competence by passing the impugned order of reversion, that too, after the retirement of the petitioner. Learned State counsel appearing for the respondents-department, has failed to satisfy this Court that Rule 2.2(b), empowers the department concerned, to revert an employee, that too without even serving him charge-sheet.

11. This Court has also examined the issues on merits. The petitioner was granted permission to pursue his higher studies, through a

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sanction letter dated 29.05.2008 (Annexure P-3), which has a huge significance here, therefore, the same is extracted hereinafter:-

“As per the application and the affidavit given by the official sent vide your above referred letter Shri Narinder Nath Sudan Pump Operator, is granted permission to pursue Mechanical Engineering Diploma as under:-

- 1) No adverse affect will be there with the education of the official on his duty and he will not claim any leave for study. The official will only be granted leave for taking examination.
- 2) On acquisition of higher qualification the official will not claim higher grade.”

12. The contents of above letter clearly spells out that a permission was duly granted to the petitioner to pursue higher studies in Mechanical Engineering Diploma. A perusal of the written statement reflects that the Executive Engineer (respondent no.3), had informed the Chief Engineer (South) (respondent no.2), vide letter dated 15.12.2015 (Annexure P-7), to the effect that the petitioner was attending his duties, while pursuing the diploma, and there was no complaint with regard to his work, and he was paid salary according to the bills of their office. The relevant para no.6 of the written statement is extracted hereinafter:-

“6. That on the receipt of said letter, the office of the answering respondent informed Respondent no.2, vide letter dated 15.12.2015 (Annexure P-7), that the petitioner was also attending his duty while pursuing the diploma and there was no complaint with respect to his work, that he was paid the salary according to the bills of their office.”



13. During the course of enquiry a specific information was provided by the educational institution concerned, that the petitioner has completed his diploma by attending the evening classes. This fact is also admitted and finds mentioned in para no.5 of the written statement. The relevant part of which is extracted hereinafter:-

“5..... Accordingly, the representatives of the Rayat Polytechnic College intimated the department, vide letter dated 25.09.2015 (Annexure P-6) that the petitioner has completed his Diploma by attending the Evening Classes.”

14. Once the aforesaid fact had come on surface, the Enquiry Officer and the officer who had passed the impugned order, ought to have considered the same, in its right perspective. Therefore, this Court is of the considered view that the impugned order has been passed, mechanically, whereby post-retirement, the petitioner has been reverted from the post of Junior Engineer to the post of Pump Operator.

15. In view of the above legal infirmities, this Court finds that the impugned order does not pass the test of legality, therefore, the same is hereby, **set aside**. Resultantly, the writ petition, stands **allowed**.

16. All pending application(s), if any, also stand **disposed** of accordingly.

February 23, 2026
dharamvir

(KULDEEP TIWARI)
JUDGE

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