

(2012) 09 P&H CK 0268
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10307 of 2008 (O and M)

Er. Ramesh Kumar Sood

APPELLANT

Vs

Punjab State Electricity Board and Others

RESPONDENT

Date of Decision : 17-09-2012

Acts Referred:

Punjab Civil Services Rules — Rule 2.2

Citation : (2012) 09 P&H CK 0268

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : A.D.S. Jattana, for the Appellant; P.S. Mattewal, for the Respondent

Judgement

Rajesh Bindal, J.—The petitioner has approached this court impugning the orders dated 25.1.2007 and 22.4.2008. Vide order dated 25.1.2007, the punishing authority had imposed punishment of 10% cut in pension for a period of three years, whereas in appeal, vide order dated 22.4.2008, the appellate authority reduced the period of punishment from three years to two years. Learned counsel for the petitioner submitted that the petitioner was issued a charge-sheet on 29.10.2001, while he was working as Junior Engineer, with the allegations that there were some irregularities in the electric connection installed in the premises of M/s Universal Poly Plastic, Rajpura, where certain joints have been left naked. There was no seal found on the meter and the same was not installed outside the premises to enable the officials for having its direct access. He further submitted that the petitioner had replied to the charges stating that he was working in the area, where there were about 8,000 connections. It was humanly impossible for him to have checked all the connections himself. It was the duty of the field staff to have pointed out the discrepancies. The meter was not found at the outer gate of the premises for the reason that after the electric connection was installed long back, certain further constructions were raised, on account of which the meter, which was at the outer-gate of the premises, was now inside the building. The joints in the cable had been duly covered with tape

and none of the joints was naked. The tampering of meter may have been carried out by the consumer, but still despite this fact, no action was taken against the consumer. The enquiry was held only for imposing minor punishment. The charges were not very serious. The petitioner had sought voluntary retirement for the reason that there was stagnation. The enquiry continued even after his retirement and the punishment of 10% cut in pension was imposed for a period of three years, whereas Rule 2.2 of the Punjab Civil Services Rules, Chapter-2, Volume-II, as applicable to the employees of the erstwhile Punjab State Electricity Board (for short, "the Board") clearly provided that cut in pension could be imposed only if the pensioner is convicted of serious crime or guilty of grave misconduct. Once even a regular enquiry was not held for inflicting major punishment it clearly shows that the misconduct was not considered grave from the very beginning. In any case, for the allegations against the petitioner, even partial cut in pension could not be imposed. He further submitted that there is no question of recovery of any amount from the petitioner as there was no allegation of any loss suffered by the Board.

2. On the other hand, learned counsel for the respondents submitted that after the charge-sheet was issued, the petitioner was granted due opportunity before the punishment was inflicted upon him. It was the duty of the petitioner to have checked all the electric connections in his area to ensure that there is no loss caused to the Board on account of tampering in the wiring or the metering equipments. The irregularities have been proved. Still a lenient view was taken against the petitioner. However, he was fair to admit that no action was taken against the consumer.

3. Heard learned counsel for the parties and perused the paper book.

4. In the case in hand, the charge-sheet was issued to the petitioner on 29.10.2001, which was replied to by the petitioner on 14.5.2002. Considering the explanation given by the petitioner, his immediate superior submitted his report to the Additional Superintending Engineer, Operation Division, Rajpura vide memo dated 3.12.2002 recommending that a letter of advice may be given to the petitioner. The petitioner sought voluntary retirement and retired as such in the year 2006. Neither it is forthcoming on record nor it was pointed out at the time of hearing as to the exact date when the petitioner sought retirement, but it is in the year 2006. The enquiry was initiated against the petitioner, which concluded on 31.8.2005. The report was submitted by the Enquiry Officer on 25.9.2006. The punishment of 10% cut in pension for three years was imposed vide order dated 25.1.2007. In appeal, the period of cut in pension was reduced from three years to two years.

5. Learned counsel for the petitioner referred to Rule 5 of the Punjab State Electricity Board Employees (Punishment and Appeal) Regulations, 1971 to submit that recovery from pay can be effected only in case there is pecuniary loss caused to the Board. He further referred to Rule 2.2(a) of the Punjab Civil Services Rules, Chapter 2, Volume-II, as applicable to the employees of the

Board, in support of his argument that cut in pension could be imposed only in case an employee had been found to be guilty of grave misconduct. In the case in hand, though certain irregularities were pointed out in the charge-sheet issued, however, the fact remains that there is no finding regarding any monetary loss suffered by the Board on account of alleged dereliction of duty by the petitioner. It is undisputed that no action was taken against the consumer for alleged tampering with metering equipments to establish alleged connivance of the petitioner. Recovery of monetary loss suffered even during the service career is one of the minor punishments. The provisions for imposition of punishment after retirement are stringent. The cut in pension could be imposed only if an employee is convicted of serious crime or guilty of grave misconduct, which is missing in the present case.

6. Considering the aforesaid facts, in my opinion, the impugned orders passed by the authorities inflicting punishment of cut in pension deserve to be set aside. Ordered accordingly. The writ petition stands disposed of accordingly.