(2001) 04 P&H CK 0080

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 3582 of 1997

P.R.T.C. Patiala APPELLANT

Vs

Dalip Singh RESPONDENT

Date of Decision : 27-04-2001

Acts Referred:
Constitution of India, 1950 — Article 14, 311
Pepsu Road Transport Corporation (Conditions of Appointment and Service) Regulations, 1981 — Rule 20

Citation : (2001) 04 P&H CK 0080

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Mr. Salil Sagar, for the Appellant; Mr. Subhash Aggarwal, for the Respondent

Judgement

M.L. Singhal, J.—Vide order dated 26.8.1993 Dalip Singh, Conductor No. F-4 Pepsu Road Transport Corporation, Budhladha depot was punished with the stoppage of two annual grade increments with cumula-tive effect by Depot Manager of the Corporation. Besides, it was ordered that nothing beyond what had been paid to him as subsistence allowance during the period of suspension would be paid to him. He filed suit for declaration challenging this order of the Depot Manager. It was alleged in the plaint that this order was passed at his, back. It was never conveyed to him. He was not served with any charge- sheet nor any fair inquiry was conducted against him. No opportunity of hearing was afforded to him before the said order was passed. Charge-sheet said to have been served upon him was defective, vague, illegal and against the rules. Inquiry conducted was also teeming with irregularities, illegalities which vitiated the entire inquiry proceedings. Inquiry was without compliance with the due procedure of law.

2. Pepsu Road Transport Corporation contested the suit of the plaintiff urging that the impugned order was passed after a regular inquiry, conducted in compliance with the due procedure prescribed by law. It was urged that the plaintiff was

estopped from filing the suit as he had admitted his fault in writing before the Inquiry Officer. He had stated that the charges levelled against him were correct and whatever punishment was meted out to him that he would accept without any demur. She cause notice was issued to him on July 6, 1993. He was given personal hearing into the matter on 24.8.1993. During the course of personal hearing, he requested that a lenient view be taken. On the pleadings of the parties, (the following issues were framed :-

1. Whether the plaintiff is entitled for declaration as prayed for ? OPP

2. Whether the suit is not maintainable in this present form? OPD

3. Whether the plaintiff is estopped from filing the present suit by his own act and conduct ? OPD

4. Whether the suit of the plaintiff is liable to be dismissed in view of his admission regarding his fault ? OPD

5. Relief.

3. v Vide order dated 6.6.1995, the plaintiffs suit was decreed for declaration to the effect that order dated 26.8.1993 passed by Depot Manager, Pepsu Road Transport Corporation, Budhladha punishing him with stoppage of two annual grade increments with cumulative effect was bad in law and not binding upon him and that he is entitled to all benefits of service as if the said order had never been passed in view of his finding tbat two punishments had been imposed upon him namely (i) the punishment of the stoppage of two annual grade increments with cumulative effect, (ii) the withholding of the wages for the suspension period; and the imposition of two punishments was bad in law and was violative of rule 20 of the Pepsu Road Transport Corporation (Conditions of Appointment and Service) Regulations, 1981. It was found that the imposition of two punishments was hit by the doctrine of double jeopardy. It was, however, found that the punishment had been imposed after following the due procedure prescribed by law which govems-the conduct of inquiries.

4. Defendnat-Pepsu Road Transport Corporation went in appeal. Vide order dated 14.8.1997, learned District Judge, Patiala dismissed the appeal. Still not .satisfied, Pepsu Road Transport Corporation has come up in further appeal to this court.

5. Learned counsel for the appellant Pepsu Road Transport Corporation submitted that the imposition of multiple penalties on a delinquent is not bad in law and is rather permitted by law. In support of this submission, he drew my attention to Commissioner of Rural Development and Others Vs. A.S. Jagannathan, where it was held that where while imposing penalty of stoppage of increments, the punishing authority has ordered the recovery of loss caused by charged employee and has also ordered to treat his suspension as service period without pay, such an order is quite proper. Respondent was found guilty of shortage and misappropriation of stores. The disciplinary authority, keeping in view that

respondent was to retire in near niture, took a lenient view and imposed punishment of stoppage of increments for two years without cumulative effect. Suspension was directed to be. treated as service period but without pay. In addition, loss of Rs. 51,300/- caused by respondent was also ordered to be recovered from him. It was held that the Tribunal had no jurisdiction to interfere with the punishment imposed by the disciplinary authority. The Tribunal has purported to interfere on the ground that three punishments cannot be imposed for the same charge. This view cannot be sustained. The order of recovery of loss caused on account of respondent''s negligence and misconduct, is permissible under the Tamil Nadu Civil Services (Classifications, Control and Appeal) Rules and also under the Tamil Nadu Pension Rules, the former permitting recovery from pay and the latter permitting recovery from pensionary benefits after retirement. The Tribunal was wrong in holding that if an order is passed for recovery of the amount from the employee, no punishment can be imposed on him, The disciplinary authority, in the present case, was entitled to impose punishment of stoppage of two increments without cumulative effect. The disciplinary authority was also right in ordering that suspension period should be treated as service period but without pay. The order must be'' read as a whole. The disciplinary authority has passed the order looking to the nature of proved charges. The Tribunal was not right in interfering with the punishment.

6. Learned counsel for the appellants drew my attention to State of Punjab and others v. Surjit Singh Conductor 1996 (2) SLR 722 where it was held that "it is settled law that once the charge is proved, the disciplinary authority is empowered to impose appropriate punishment. The rule indicates withholding of payment of arrears of salary as one of the modes of punishment. Disciplinary authority has rightly exercised its powers in withholding the salary in respect of suspension period." The respondent was a conductor. A charge-sheet was issued imputing misconduct in not issuing the tickets. The Inquiry Officer, though had not recorded finding of proof of misconduct, the disciplinary authority did not agree with the Inquiry Officer''s report and has given reasons in support of the disagreement, recorded a finding as to how the charges have been proved by giving opportunity to the respondent to show why the punishment of stoppage of increments and also withholding payments of arrears of salary, as punishment. The respondent has submitted his explanation. On consideration thereof, the disciplinary authority imposed stoppage of three annual increments with cumulative effect and also withheld payment of arrears of salary for the suspension period. The trial Court dismissed the suit. In appeal, the suit was decreed. In second appeal, the High Court maintained the appellate decree. In Supreme Court, the appeal was allowed and the suit was dismissed.

7. In this appeal, the question that arises is whether the imposition of stoppage of two increments with cumulative effect and the withholding of the salary of suspension period could or could not be ordered. It depends upon the relevant punishment rules whether such punishments could be imposed and whether such punishments could be viewed as one punishment or these were two

punishments. In Regulation 20 of the PRTC Conditions of Appointment and Service Regulations, 1981 are envisaged penalties which may, for sufficient reasons be imposed on the employees. It was submitted by the learned Counsel for the respondent that the imposition of withholding of increments with cumulative effect is mentioned at (iii) of Regulation 20 of these regulations. Imposition of withholding of wages for the suspension period is mentioned at (v) of Regulation 20. It was submitted that each of these punishments are mentioned in regulation 20 is an independent punishment in itself and for the same lapse, two punishments could not be imposed. It was submitted by him that censure and withholding of increments are two punishments and cannot be imposed simultaneously. Censure is one form of punishment and withholding of increments is another form of punishment. In support of this submission, he has relied upon P.R.T.C. v. Darshan Singh 2000(4) STC 688 (P&H) where it was held that "withholding of increments and withholding of wages for suspension period are two separate punishments which could not be awarded to a delinquent for one offence."

8. It was submitted that he was placed under suspension. When he was placed under suspension, it was " felt that the charge against him was grave and it cbuld cost him his job but when punishment came to be passed on him, it was felt that the charge was not that grave and he could be dealt with, with the stoppage of increments with cumulative effect. In this situation, it was submitted that, withholding of wages for the suspension period should be viewed as a punishment on him.

9. It is true that when he was punished with the stoppage of increments with cumulative effect for the misconduct proved against him and he was reinstated into service, reinstatement should have followed the payment of back wages. I think the withholding of wages for the suspension period is to be viewed as a punishment on him when the charge was not felt to be that grave and he was let off with the imposition of stoppage of increments with cumulative effect. Even otherwise, in the regulation 20 of PRTC Regualtions, 1981, censure, withholding of increments, withholding of wages for the suspension period, reduction to a lower post, etc. are mentioned under different heads.

10. For the reasons given above, it is held that the impugned order Ex.P-1 was justifiably set aside by the courts below. It should, however, have been left to the discretion of the PRTC whether or not to pass fresh order retaining either of these two punishments. Decrees passed by the courts below are accordingly modified. Appeal disposed of. No costs.

11. Appeal disposed of.

