

(2016) 07 P&H CK 0243
In the Punjab And Haryana At Chandigarh
Case No : LPA No. 1186 of 2016 (O&M)

Satbir Singh

APPELLANT

Vs

Dakshin Haryana Bijli Vitran Nigam Ltd.

RESPONDENT

Date of Decision : 14-07-2016

Acts Referred:

Citation : (2016) 4 SCT 603

Hon'ble Judges : Surya Kant and Darshan Singh, JJ.

Bench : Division Bench

Advocate : Ajay Chaudhary, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Darshan Singh, J.—CM No.2466-LPA of 2016

This application has been moved under Section 5 of the Limitation Act, 1963 for condonation of delay of 11 days in filing the present appeal.

Heard on the application.

In view of the reasons mentioned in the application, the same is allowed and the delay of 11 days in filing the present appeal is hereby condoned.

LPA No.1186 of 2016

The appellant is aggrieved with the judgment/order dated 29.03.2016, vide which the Civil Writ Petition No.3332 of 2015 filed by him has been dismissed by the learned Single Judge.

2. Appellant Satbir Singh initially joined as Work-Charged T Mate on 20.01.1977 with the respondents. His services were regularised as Assistant Lineman on 25.05.1982. He retired on 30.04.2012. During the course of his duty, on 11.2.1993 he suffered the electric shock. He was hospitalized and remained admitted in PGIMS, Rohtak with effect from 12.02.1993 to 12.03.1993 and further remained under treatment for 13.03.1993 to 15.10.1995. After getting

the fitness certificate from the concerned medical authority, he joined the duties on 16.10.1995. He submitted the application for special disability leave. The Executive Engineer, without verifying the facts and record, directed the SDO, (Operation Division), Mundhal to get the criminal case registered against the appellant for causing financial loss to the department by preparing false medical certificate and submitting the same for sanction of leave on account of non-fatal accident. However, the appellant was acquitted in the criminal case. In the departmental inquiry, he was awarded the punishment of one annual increment without future effect vide order dated 03.04.2014. The appellant filed the writ petition to challenge the said punishment order dated 03.04.2014 and seeking direction to the respondents to release the consequential benefits to him i.e. the ACP scales and promotion from the date when his juniors were promoted.

3. The writ petition filed by the appellant has been dismissed by the learned Single Judge vide impugned judgment/order dated 29.03.2016.

4. We have heard learned counsel for the appellant and have gone through the paper-book meticulously.

5. Learned counsel for the appellant contended that once the appellant was acquitted of the criminal charges by the criminal court and the charge-sheet was withdrawn, respondent No.3 was not legally competent to award the punishment of stoppage of one annual increment without cumulative effect. The withdrawal of charge-sheet shows that the charges levelled against the appellant were not proved. He further contended that it is an admitted fact that the accident has taken place when the appellant was performing the official duties and he had suffered the injuries. He has taken the treatment from PGIMS, Rohtak where he remained hospitalized. The case of the appellant has also not been wrongly considered for grant of ACP scale. He has been made to suffer the double jeopardy. He has also not been considered for promotion from the date when his juniors were promoted. Thus, learned counsel for the appellant contended that all the service benefits admissible to the appellant have been withheld without any regular inquiry and illegally.

6. We have duly considered the aforesaid contentions.

7. This fact is not disputed that the appellant met with a nonfatal accident on 11.02.1993 while posted in the office of the SDO, Operation, Mundhal. As per the report of the Assistant Foreman (Annexure R1/1 in the writ petition), the nut-bolts of the GO switch were free and blade was also illegible. The said deficiency was made good on the spot and GO switch started working properly.

8. Annexure R1/2 is the copy of the letter dated 07.11.2002 received from the Medical Superintendent, PGIMS, Rohtak with respect to the issuance of Medical Fitness Certificate with respect to the appellant, which shows that the appellant was not advised any rest as per the discharge slip. The certificate was un-authenticated as it did not bear any dispatch number, date, etc. Various other deficiencies were also mentioned therein. Signature of the issuing authority was

also not identifiable. Thus, due to production of the bogus medical certificate, the criminal case was got registered against the appellant. Though, later on he was acquitted in that case in appeal by the learned Additional Sessions Judge, Hisar vide judgment dated 12.12.2012.

9. The appellant was also served with a charge-sheet and in view of the reply filed by the appellant, only the minor punishment of stoppage of one increment without future effect was ordered to be imposed and charge sheet obviously for major punishment was withdrawn. The withdrawal of the charge-sheet for major punishment will not debar the punishing authority to award the minor punishment. Mere acquittal in the criminal case will also not debar the competent authority to award the punishment in departmental proceedings. Reference can be made to cases South Bengal State Transport Corpn. v. Swapan Kumar Mitra and others 2006(1) SCT 720, Bank of India & Anr. v. Bhimsen Gochhayat 2010(1) SCT 834 and Deputy Inspector General of Police and another v. S. Samuthiram 2013(1) SCT 115. Moreover, in the charge-sheet, in addition to the charges for submitting the false medical certificate, there were other charges also. The learned Single Judge has rightly observed that the appellant has furnished the forged medical certificate to take the benefits of letter dated 04.12.1987 for grant of special disability leave. So, no fault can be found with the punishment of stoppage of one annual increment without future effect vide order dated 03.04.2014. We have no reason to differ with the findings recorded by the learned Single Judge that the order dated 03.04.2014 has been rightly passed.

10. The contentions raised by learned counsel for the appellant that the appellant is entitled for release of ACP scale and promotion, these benefits are only available to the employee who has performed the satisfactory service. The employee who indulges in furnishing the fabricated medical certificate to claim the benefits cannot claim these benefits as a matter of right.

11. The appellant has not been able to bring on record any material to show that he has worked as Work-Charged T Mate with the respondent-department. So, the claim of the appellant for counting the work-charged service towards pensionary benefits has been rightly declined by the learned Single Judge.

12. Thus, keeping in view our aforesaid discussion, the present appeal is devoid of merits. Hence, dismissed.