

2025:PHHC:045077



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

(112)

**RSA-583-2025 (O&M)
Decided on : 02.04.2025**

Punjab State Power Corporation Ltd. & othersAppellants

Versus

Ram Singh, Ex.Assistant LinemanRespondent

CORAM : HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Munish Gupta, Advocate, for the appellants.

LAPITA BANERJI, J. (Oral)

1. Under challenge in the present Regular Second Appeal is the decree and judgment dated November 29, 2023, passed by the Civil Judge (Jr.Divn.), Patiala and the judgment dated February 1, 2025, passed by the First Appellate Court, Addl.District Judge, Patiala. The brief facts leading to the dispute between the parties are delineated hereinafter:

- (i) The plaintiff/respondent herein was working as Assistant Lineman with Punjab State Electricity Board (PSEB), later Punjab State Power Corporation Ltd. (PSPCL).
- (ii) The plaintiff had a consistently good service record. There was no adverse remarks in the entire period of service of the plaintiff.
- (iii) Vide office order No.67 dated September 19, 2007, the plaintiff was dismissed from service of PSEB with immediate effect, by the Addl. Superintending Engineer, Central Store, PSEB, Patiala.
- (iv) The said dismissal was done without issuance of any charge-sheet, without holding any enquiry and without affording an opportunity of hearing to the plaintiff.

- (v) The said order of termination was challenged by the plaintiff by filing writ petition **CWP-18906-2007** before this Hon'ble High Court.
- (vi) Vide order dated January 21, 2008, a Coordinate Bench of this Court directed the plaintiff to prefer a statutory appeal and the competent authority was directed to decide the appeal within one month of filing of the same, upon an opportunity of hearing being granted to the plaintiff.
- (vii) The plaintiff filed an appeal. The same was rejected by an order dated March 11, 2008.
- (viii) A revision petition was filed before the Secretary, PSEB, Patiala and the same was put up before the Whole Time Members (WTM) of the Board.
- (ix) In the meeting held on December 26, 2008, the plaintiff was directed to be reinstated in service. The Chief IR&W, PSEB vide office order dated January 12, 2009, reinstated the plaintiff in service but allowed the competent authority to initiate fresh disciplinary proceedings.
- (x) Thereafter, memorandum of charges was issued vide memo No.1912 dated July 7, 2009. The charges in the said memo were the same on which the office order No.67 dated September 19, 2007 dismissing the plaintiff, was passed.
- (xi) On August 29, 2011, the Deputy Secretary/Enquiry was appointed as the Enquiry Officer and the Law Officer, Office of Secretary/Legal Section, Patiala was appointed as the Presenting Officer.
- (xii) In the enquiry report, it was held that 2 of the charges were proved against the plaintiff/delinquent officer and he was absolved of

2 other charges. Vide punishment order dated February 5, 2013 (Annexure A-6), the plaintiff was punished with “*stoppage of two annual increments with cumulative effect*”.

(xiii) A criminal case was also initiated against the plaintiff on same allegations and FIR No.401 was lodged against him on September 13, 2007 prior to his first dismissal on September 19, 2007.

(xiv) Vide order dated May 14, 2014 (Annexure A-3), the learned Judicial Magistrate, 1st Class, Patiala convicted the plaintiff under Section 323 read with Sections 341, 353, 148 & 149 of IPC.

(xv) Thereafter, vide office order No.397 dated September 8, 2014 (Annexure A-7), the plaintiff was dismissed from services of PSPCL on the basis of the judgment passed by the learned Judicial Magistrate on May 14, 2014.

(xvi) The plaintiff, alleging double jeopardy//triple jeopardy, prayed for withdrawal of the second dismissal order dated September 8, 2014.

(xvii) The employer/defendants forwarded the plaintiff's representation in the matter to the Secretary/Legal, PSPCL.

(xviii) The Secretary/Legal, PSPCL, vide memo dated January 1, 2015, opined that the departmental proceedings initiated by way of filing of charge-sheet leading to a final decision based on the findings of the Enquiry Officer and relevant evidence had attained finality. The evidence and deposition before the criminal Court leading to the conviction of the employee were not facts new to the knowledge of the punishing authority. Therefore, once the punishing authority had taken a decision on the basis of the same evidence that led to conviction in criminal trial, the second punishment, particularly with

higher proportion was not legally sustainable and hit by the principle of “*double jeopardy*”.

(xix) The plaintiff filed an appeal against the second order of dismissal dated September 8, 2014.

(xx) The appeal was dismissed by the Superintending Engineer vide office order No.248 dated October 6, 2015 (Annexure A-8). The review petition filed by the plaintiff before the Chief Engineer was not decided till the date of filing of the suit.

(xxi) It was the plaintiff’s contention before the Trial Court that the review petition was arbitrarily and illegally kept pending by the reviewing authority. The impugned order of dismissal and the appellate order upholding the order of dismissal were against regulations No.28, 29 and 33 of PSPCL (Employees Punishment & Appeal) Regulations, 1971 (for short, the ‘1971 Regulations’).

(xxii) The plaintiff pleaded that there was no fresh cause of action against him on September 8, 2014 when “*the order inflicting punishment of dismissal*” was passed by the punishing authority. The Appellate Authority also illegally, arbitrarily and with *mala-fide* intent, upheld the “*order of dismissal*” passed by the punishing authority.

(xxiii) The defendants in the suit/appellants herein, contested the same by filing their written statement. It was contended that the competent authority had taken action as per Regulation 14 of 1971 Regulations. The order of reinstatement passed by the Board was subject to the right of the Department to initiate disciplinary proceedings against the plaintiff under Regulation 8 of the 1971 Regulations. Therefore, there was no illegality or arbitrariness in issuance of the charge-sheet.

(xxiv) It was the defendants' case that the finding of the Enquiry Officer, on the basis of sufficient evidence, proved that the plaintiff manhandled his superior officer and used criminal force against him resulting in removal of his turban.

(xxv) The disciplinary proceedings were held pursuant to the decision of the Board. The plaintiff did not challenge the decision of the Board and therefore, the said order dated January 12, 2009 reinstating the plaintiff alongwith permission to initiate disciplinary proceedings, had attained finality.

(xxvi) Furthermore, since the plaintiff was convicted by the criminal Court in FIR No.401 dated September 13, 2007 under Section 323 read with Sections 148, 149, 341 & 353 of IPC, the plaintiff could be and was rightly "*dismissed from service*". The legal opinion of the learned Secretary was not binding in any nature.

(xxvii) After evidence was led by the plaintiff and departmental evidence was produced on behalf of the defendants, the learned Trial Court held that the order of punishment dated September 8, 2014 and rejection of appeal dated October 6, 2015 were illegal and arbitrary. The said orders were declared *null and void*.

(xxviii) The inaction on the part of the revisional authority was also held to be unsustainable, against principles of natural justice and expressed provisions of departmental rules. The Trial Court held that considering the principles of "*double jeopardy*" and the fact that the Department had also awarded the "*punishment of censure*" (sic. reduction of 2 annual increments with cumulative effect), the employer could not have "*dismissed*" the plaintiff from service just because he was convicted in criminal trial.

(xxix) Accordingly, the suit was decreed in favour of the plaintiff. The plaintiff was held entitled to reinstatement in service w.e.f. September 8, 2014, with all consequential benefits as though he was not dismissed. Furthermore, the appellant/employer was directed to pay interest @ 9% per annum from the date of accrual till the date of realization.

(xxx) The First Appellate Court held that the dismissal order of the plaintiff was in violation of Article 14 of the Constitution of India. The other employees who were involved in the same incident were either reinstated and receiving salary or were receiving pensionary benefits whereas the plaintiff was singled out and dismissed due to the operation of the obvious bias against him.

(xxxi) It was also held that the concept of '*double jeopardy*' is rooted in the principle that no individual should be punished for the same offence twice. The plaintiff was penalized with "*stoppage of two increments with cumulative effect*" for the same misconduct, for which, he was later "*dismissed*". It was held that the authorities failed to assess whether the plaintiff's conduct leading to his conviction justified the "*order of dismissal*".

(xxxii) Furthermore, no reasons had been given justifying such dismissal and therefore, the same was in violation of Clause 14 of 1971 Regulations which is similar to the safeguard laid-down in Article 311(2)(a) of the Constitution of India. Consequently, it was held that the "*second punishment of dismissal*" amounted to "*double jeopardy*" and the action was legally unsustainable.

(xxxiii) Furthermore, other officials convicted of the same offence were imposed different punishments by the punishing authority

without any justifiable reason. The disparity in punishment demonstrated inconsistency and a biased approach of the punishing authority. Therefore, there was no justification for such dismissal.

(xxxiv) Accordingly, the First Appellate Court held that the Trial Court rightly decreed the suit and granted the relief sought for by the plaintiff.

(xxxv) The learned Addl.District Judge, Patiala concluded that the suit was rightly decreed in favour of the plaintiff and the judgment and decree did not suffer from any illegality, perversity or mis-application of law. Therefore, the same did not merit any interference.

2. This Court has heard learned counsel for the appellants and perused the material on record.

3. There is no doubt that the disciplinary proceedings were initiated in accordance with the office order dated January 12, 2009, within the time stipulated by the Board, by which the plaintiff was reinstated into service. Therefore, the plaintiff could not turn around and object to the disciplinary proceedings being conducted against him in accordance with law/rules/regulations.

4. After the departmental proceedings were initiated and the report of the Enquiry Officer was received, the same were concluded following the prescribed procedure and after complying with the principles of natural justice. The punishing authority/the Assistant Manager/HR for the Chief Engineer/ Operation, PSPCL, Patiala held that upon proving of the charges, the plaintiff was liable to be punished by an order of “*stoppage of two annual increments with cumulative effect*”.

5. It is apt to set out the charges in the memorandum of charges filed against the plaintiff:

“Charge No.1: He (Sh. Ram Singh Workman now Assistant Lineman) alongwith other members of his Union opposed the Spot Billing started by the Board through contract under Operation East Division, Patiala and he, by snatching the bills issued through Spot Billing from the consumers, torn the same and threatened them.

Charge No.2: He (Sh. Ram Singh Workman now Assistant Lineman) alongwith his companions while opposing the Spot Billing, on dated 13.09.2007 in the morning at about 11:00 AM, switched of the electricity to the office of the Additional Superintending Engineer, Operations East Division Patiala when the Additional Superintending Engineer, Operation East Division Patiala was sitting in his office with Senior Executive Engineer Enforcement, Patiala, Sub Divisional Officer/Operations East Sub Division Patiala and Sub Divisional Officer Rohar Jangir; and thereafter, when he came out of his room and by switching on the light again started going to his room, then he (Sh. Ram Singh Workman now Assistant Lineman) in connivance with his other companions pushed the said officer out of the premises of the office. He assaulted the Additional Superintending Engineer, Operation East Division Patiala, pulled down his turban, abused him and threatened to kill him. At that point of time, one companion of the employee attacked Additional Superintending Engineer, Operation East Division Patiala with plier (‘plass’) which could have resulted into suffering of serious injuries by the said Officer.

Charge No.3: He (Sh. Ram Singh Workman now Assistant Lineman), in conivance with his accomplices, insisted the Office Staff of Sub

Division East Patiala, not to collect bills prepared through a Spot Billing and threatened them with social boycott.

Charge No.4: *He (Sh. Ram Singh Workman now Assistant Lineman) tried to stop the Spot Billing run by the Board through Additional Superintending Engineer, Operation East Division Patiala, which was not within the authority of the said employee. Due to his said act, the atmosphere of the office got spoiled and office work was disrupted.”*

6. Out of the 4 charges, the plaintiff was punished upon proving of charges No.2 and 4.

7. It would be relevant to consider the brief facts on which the FIR No.401 dated September 13, 2007 was registered against the plaintiff and 6 other employees who were similarly situated. The brief facts leading to registration of the FIR is reproduced hereinafter:

“2. The brief facts of the case of the prosecution are that one letter was received by the SHO, Division No.4, Punjab Police, Patiala from Gurpal Singh, Assistant Executive Engineer, (Eastern Division) Patiala to the effect that he was working in his office on 13.9.2007 and Er.D.P.Sethi, Er.Harjit Singh and Er. Ram Singh who were also sitting with him and at about 11:00 a.m., the length of his room went off and then he called his steno Ravinder Singh to inquire about the reason of interruption of electricity supply and then Ravinder Singh checked from the outside and told that light was switched off by Vijay Dev by switching off MCB. That after some time, Gurpal Singh went outside and he switched on the MCB and when he was coming in his office after switching on the MCB, then Vijay Dev and his companions i.e. Banarasi Dass, Rajender Singh, Tirath Bahadur, Rameshwar Dass, Amar Dev and Ram Singh restrained him and did not allow him to enter into his office and they all dragged him

outside. That Er. Bhupinder Sharma who also working there came out and the accused also pushed him and misbehaved with him. That then accused misbehaved with Gurpal Singh and they also beaten him, abused him, and accused also removed the turban of Gurpal Singh, and even one representative of union group also tried to hit him with plier.”

8. The criminal Court was of the opinion that even though no deadly weapon was recovered, still the charge under Section 148 of IPC was proved against all the employees as the complainant stated that one of the members of the accused party tried to hurt their superior officer, one Gurpal Singh with a plier. Since the said allegation was corroborated by the oral evidence of one eye-witness, the use of plier could have been deadly, the said charge was held to be proved against all the accused-employees, even though the offending article was not recovered.

9. The Judicial Magistrate also held that the plea of *alibi* could not be substantiated by accused since they were all present at their office on the date of occurrence and they could have easily assembled at the place of alleged occurrence since it was near to the place where they were stated to be performing their jobs.

10. The argument that there was no independent witness to the alleged occurrence was also rejected by the Criminal Court. The fact that the accused could have been falsely implicated was also not taken into consideration. The defence with regard to inconsistencies in the statement of the complainant and later improvements were also rejected.

11. Seven people were convicted of an offence under Section 148 of IPC when the allegation was of one person with a plier trying to injure the senior official. Without any discussion, the criminal Court opined that the

offences under Sections 341, 323, 353, 148 & 149 IPC were proved against all the accused beyond shadow of reasonable doubt.

12. The aforesaid sections of the IPC are reproduced hereinafter:

“341. Punishment for wrongful restraint.—

Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

323. Punishment for voluntarily causing hurt.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

353. Assault or criminal force to deter public servant from discharge of his duty.—

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 148. Rioting, armed with deadly weapon. —

Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.—

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.”

13. From the bare perusal of the order of conviction, it appears to the mind of this Court that the same has been sketchily written, to say the least. How the plaintiff was connected to the offences and what was his specific role did not find any mention whatsoever.

14. Learned counsel appearing on behalf of the appellants places reliance on Clause 14(i) of the 1971 Regulations. The said clause is reproduced hereinunder:

“14. Notwithstanding anything contained in Regulations 8, 9, 10, 11, 12 and 13:-

(i) where any penalty is imposed on an employee on the ground of conduct which has led to his conviction on a criminal charge”

15. The said clause cannot be read in isolation and also has to be considered in the light of Regulation No.8. The relevant extract of the said regulation is reproduced hereinunder:

“8. (1) No order imposing any of the penalties specified in clauses (v) to (ix) of Regulations 5 shall be made except after an inquiry held, as far as may be in the manner provided in this regulation 9 or in the manner provided hereinafter.

(2) Whenever the punishing authority or any other authority empowered by the Board, by general or special order, is of the

opinion that there are grounds for inquiring into the truth of any allegations against an employee, it may itself, inquire into or appoint under this regulation and authority, to inquire into the truth thereof.

Explanation

Where the punishing authority itself holds the enquiry any reference in sub-regulation (7) to (20) and in sub regulation (22) to the inquiring authority shall be construed as a reference to the punishing

(3) Where it is proposed to hold an inquiry against an employee under this regulation and regulation 9, the punishing authority shall draw up or cause to be drawn up;

(i) the substance of the allegations into definite and distinct articles of charges

(ii) a statement of allegations in support of each article of charge which shall contain

(a) a statement of all relevant facts including any admission or confession made by the employee;

(b) a list of documents by which and list of witness by whom, the articles of charge are proposed to be sustained.”

16. It is trite law that no one can be condemned unheard. Therefore, to the mind of this Court, the authorities concerned were under an obligation to evaluate the order of conviction passed by the criminal Court and see whether there was anything substantially connecting the delinquent employee to the commission of the offences or any factum of guilt over and above the offence for which departmental enquiry was held, could be culled out from the criminal conviction. The charges for which “*two annual increments with cumulative effect*” were stopped were similar in nature to the charges on the basis of which the criminal conviction was made.

17. The opinion of the Secretary/Legal also appears to be just to the mind of this Court. The plaintiff could not have been put to “*double jeopardy*” when on the basis of evaluation of evidence, the disciplinary authority came to the finding that the punishment of “*stoppage of two annual increments with cumulative effect*” was sufficient. A beneficial reference may be made to the Apex Court’s judgment in “**Lt. Governor, Delhi & others Vs. HC Narinder Singh**”, 2004 (13) SCC 342. Relevant extract thereof is reproduced hereinbelow:

“4. Reading of the show-cause notice suggests as if it is in continuation of the departmental proceedings. Lack of devotion to duty is mentioned as the reason for the proposed action which was the subject-matter of the earlier proceedings as well. The second proposed action based on the same cause of action proposing to deny promotion or reversion is contemplated under the impugned show-cause notice. Second penalty based on the same cause of action would amount to double jeopardy. The Tribunal was, therefore, right in law in annulling such an action. We are not expressing any opinion on the ambit or scope of any rule.”

18. Reliance has been placed by the learned counsel for the appellants on the judgment of a Coordinate Bench of the Delhi High Court “**Dashrath Singh Vs. Andhra Bank & others**” (2016) 3 LLJ 624, to submit that the facts and circumstances of the case are similar and after granting of a punishment of “*stoppage of four annual increments with cumulative effect*” the petitioner was “*dismissed*” from service pursuant to the order passed by the criminal Court.

19. To the mind of this Court, the said case is clearly distinguishable. In the said case, the petitioner was the only delinquent employee. He had seriously hurt his superior officer within the bank premises and the said officer had to be rushed immediately to the hospital. The act of the petitioner was held contrary to good morals and shocking to

the moral sense of the community. The Coordinate Bench held that the same was an offence involving “*moral turpitude*” as it was a serious offence where a person employed with the bank, dealing with the general public, committed physical assault to his superior officer, tampered with the service records and used unparliamentary language. Therefore, the respondents/ employer was held to be justified in dismissing the petitioner from service after the order of conviction was passed by the criminal Court without conducting any enquiry.

20. In the present case, the petitioner was working as a Lineman. There were seven people involved in the offence of manhandling the superior official. The superior official was not seriously hurt. His turban had come-off during the manhandling/scuffle. The allegation of attempting serious hurt on the superior official was attributed to a different person. By no stretch of imagination can the action of the plaintiff be termed as an offence involving “*moral turpitude*” justifying the “*dismissal*” after the order of punishment had already been passed after conducting the entire departmental proceedings. No offensive act was committed in front of the public.

21. Furthermore, there is no explanation as to why out of the seven delinquent officials, six officials were either reinstated with wages or were being granted pension whereas the plaintiff was “*dismissed*” from service. Such an act on the part of the employer is clearly violative of Article 14 of the Constitution of India.

22. Accordingly, this Court finds no illegality or perversity in the impugned judgment and decree dated November 29, 2023 passed by the Trial Court or the judgment dated February 1, 2025 passed by the First Appellate Court. It, therefore, directs the plaintiff to be reinstated in service

w.e.f. September 8, 2014 with all consequential benefits as per the rules as if he was continuing in service. The arrears of pay should be paid to him within a period of three months from the date of this order alongwith interest @ 12% per annum from the date of accrual till realization. Furthermore, the plaintiff will be granted litigation costs assessed at Rs.50,000/- due to the harassment suffered by him on account of no fault of the plaintiff.

23. With the directions aforesaid, **Regular Second Appeal No.583 of 2025** is disposed of.

24. Pending application(s), if any, are accordingly, disposed of.

April 2, 2025
sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No