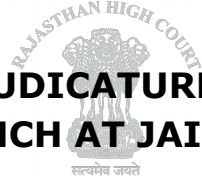




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 1825/2017

Sunil Kumar Yadav S/o Shri Hanuman Singh, aged about 33 years, R/o P-50, Village Gopalpura, Near Triveni Nagar, Gopalpura Bypass, Jaipur Raj..

-----Petitioner

Versus

1. Jaipur Vidyut Vitran Nigam Limited Through Its Secretary, Vidyut Bhawan, Vidhansabha Road, Jaipur
2. The Managing Director (Disciplinary Authority), Jvnl, Vidyut Bhawan, Vidhansabha Road, Jaipur
3. The Chairman (Appellate Authority), Jvnl, Vidyut Bhawan, Vidhansabha Road, Jaipur

-----Respondents

For Petitioner(s) : Dr. Saugath Roy

For Respondent(s) : Mr. Shailesh Prakash Sharma

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

20/04/2026

1. Heard on final disposal.
2. The present writ petition has been filed challenging the order of the disciplinary authority dated 28.05.2015 (Annex.9) whereunder, the punishment of stoppage of one annual grade increment without cumulative effect was ordered and also the order of the appellate authority dated 25.10.2016 (Annex.12) whereunder, the punishment was enhanced to two annual grade increment without cumulative effect in the appeal filed by the delinquent.
3. The brief facts disclose that the petitioner was working as a Junior Engineer in the Office of O&M, Malakhera, District Alwar for





the period 31.05.2007 to 01.03.2009. It is alleged in the charge-sheet that during his tenure, he allegedly not deposited the burnt transformers numbering 383, which were in his custody with the Assistant Engineer's Office. As a result, there was a loss on account of expiry of guarantee period of those transformers. The other charge is that the oil from the burnt transformers were not collected and deposited with the Assistant Engineer's Office. In response to those charges, the petitioner submitted an explanation to the disciplinary authority and in the said explanation, he has taken a stand that transformers, which he has received and oil removed from the burnt transformers, were promptly deposited within the time stipulated in the regulation. According to him, the regulation requires deposit of such transformers within 72 hours and he claimed that he has deposited the same within the said time. The disciplinary authority has not satisfied with the explanation and proceeded to impose minor penalty of stoppage of one annual grade increment without cumulative effect.

4. The petitioner, aggrieved by the order of the disciplinary authority, filed an appeal before the appellate authority against the findings of charge proved and also imposition of punishment. The appellate authority concurred with the findings of the charges and enhanced the punishment from stoppage of one annual grade increment without cumulative effect to two annual grade increment without cumulative effect. Aggrieved by the same, the present writ petition has been filed.

5. Learned counsel for the petitioner submits that all through the proceedings, petitioner's first appointment was in Prithvipura





and he was on probation during the said period and whatever the transformers which he received was promptly deposited within time as reflected from the stock-register. It is also his contention that the committee was constituted by the disciplinary authority to verify the factual facts relating to the allegations in the charge-sheet. The said committee has submitted report and the report was in favour of the petitioner. All these materials were not considered by the disciplinary authority while ordering that the charges are proved against the petitioner. It is also his submission that the punishment of stoppage of one annual grade increment is disproportionate and the same is not sustainable. The further arguments of learned counsel for the petitioner is that when the petitioner filed an appeal before the appellate authority, the appellate authority cannot go beyond the relief sought by the petitioner and pass an order detrimental to the petitioner's grievance by enhancing the punishment from one annual grade increment to two annual grade increment without cumulative effect.

6. Learned counsel for the respondents submits that the stock-register of the petitioner was considered by the disciplinary authority. In the stock register, there is no clear reflection of the entries with regard to date on which the petitioner deposited the stock which he has received during his tenure. It is also his submission that the committee report is not relevant for the reason that it is not a part of the enquiry. It is also submitted that the appellate authority can also enhance the punishment after giving notice to the affected party suo moto in the appeal filed by the petitioner. Since the enhancement was done after hearing the





petitioner, the same cannot be found fault with. It is also his contention that Regulation 16 of the Rajasthan State Electricity Board Employees (Classification, Control & Appeal) Regulations, 1962 (herein after referred to as 'the Regulations of 1962') permits the appellate authority to initiate a suo moto proceedings on his own for enhancement of punishment.

7. I have gone through the material available on record. The findings of appellate authority as well as the original authority clearly demonstrate that an opportunity of placing the entire evidence was given to the delinquent employee, more particularly by giving access to the records to rebut the claim made by the disciplinary authority with regard to alleged violations reflected in the charge-sheet. I have also considered the defence of the respondent-petitioner all through the proceedings and his contention was that he has promptly deposited all the transformers which he has received during his tenure with the Assistant Engineer's Office. This Court has verified the stock register maintained by the petitioner in his office. There are entries with regard to date on which the petitioner received the transformers and the stock-register also shows that the date on which they were deposited is not reflected from the stock-register maintained by the petitioner.

8. The petitioner's case is that the stock-register of the Assistant Engineer if cross-verified with the stock-register of the petitioner, it could have been made out that the petitioner promptly deposited the transformers. The petitioner was given opportunity to have access to records to substantiate his case. Normally, the stock-register of the petitioner should reflect the





date of receipt of the stock and the date of handing over of the stock. Unfortunately, his stock-register is silent. At least when the such defence offered to the charges, petitioner could have done the exercise by cross-verifying with the stock register of Assistant Engineer to show that each item which he received and which he deposited was promptly deposited within the time stipulated under regulation so as to disprove the claim made by department. This exercise has not been done. When the authority having examined the petitioner's stock-register, it came to the conclusion that there was no prompt deposition. Such findings cannot be found fault, therefore, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India and no additional evidence can be allowed at this juncture.

9. Dealing with the enhancement of punishment in the appeal, undisputedly the appeal is filed by the delinquent aggrieved against the findings of disciplinary authority with regard to charges and imposition of punishment. The appellate powers are exercisable upon the appeal filed by aggrieved party. The appeal is available to both parties before disciplinary authority and both can be aggrieved persons. Since the provision as referred above enables the appellate authority to enhance the punishment, it does not mean that the appellate authority can enhance the punishment in the appeal filed by the delinquent against his own interest. Surprisingly, we see the Regulation 16 of The Rajasthan State Electricity Board Employees (Classification, Control & Appeal) Regulations, 1962 (herein after referred to as 'the Regulations of 1962') which reads hereunder:





The authority to which an appeal against an order imposing any of the penalties specified in Regulation 5 lies, may, if no appeal has been preferred therefrom, of its own motion or otherwise, call for and' examine the records of the case in a disciplinary proceeding held by an authority subordinate to it and after making further Investigation If necessary ;

(a) confirm, modify or set-aside the order, or

(b) impose any penalty or set aside, reduce, confirm or enhance the penalty Imposed by the order,

(c) remit the case to the authority which made the order or any other authority, directing such further action or inquiry as It considers, or

(d) pass such order as it deems fit.

Provided that.

(1) An order imposing or enhancing a penalty shall not be passed, unless the employee concerned has been given an opportunity of making any representation which he wishes to make against such enhanced penalty.

(2) If the Appellate Authority proposes to impose any of the penalties specified in clause (e) to (h) of Regulation 5, in a case where an enquiry under Regulation 7(1) has not been held, it shall subject to the provisions of regulation 8 direct such an enquiry to be held and thereafter on consideration of the proceedings of such enquiry and after giving the person concerned an opportunity of making any representation pass such orders as it deems fit.

(3) No action under this regulation shall be initiated more than six months after the date or order to be revised.

10. Regulation 16 of the Regulations of 1962 also confers suo moto power of revision with the same appellate authority. Without an appeal also, the appellate authority can suo moto initiate proceedings for enhancement even though there is no appeal filed. These provisions confers a revisional power on the same appellate authority. These provisions further makes clear that whenever the authority want to take cognizance of proceedings for





enhancement of punishment, it has to first take the cognizance suo moto and then, issue the proposed action to the delinquent and after submitting his representation, necessary orders could be passed enhancing the punishment.

11. In the present case, such procedure has not been followed, however, such a procedure has to be initiated within six months from the date of order of disciplinary authority. Absolutely, there is no record to show that the suo moto proceedings were taken cognizance before imposing any enhanced punishment suo moto. Further, there is no notice to the delinquent proposing to enhance the punishment. The entire exercise done in violation of Regulation 16 of the Regulations of 1962, therefore, the order of enhancement is unsustainable.

12. In the result, the appeal is partly allowed and the impugned order of the appellate authority enhancing punishment of stoppage of one annual grade increment to two annual grade increment without cumulative effect is quashed and set aside. Regarding the other findings of the appellate authority as well as the disciplinary authority are concerned, the same are hereby confirmed.

(MUNNURI LAXMAN),J

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