

Rishabh Kumar Jain Vs. M. P. Poorva Kshetra Vidyut Vitram Co.

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Court : Madhya Pradesh

Decided On : Jul-20-2012

Appellant : Rishabh Kumar Jain

Respondent : M. P. Poorva Kshetra Vidyut Vitram Co.

Advocate for Def. : Shri. A.P.Shroti, Shri. Madhur Shukla

Advocate for Pet/Ap. : Shri. Rajneesh Gupta

Judgement :

20.07.2012.

Shri Rajneesh Gupta, counsel for the petitioner.

Shri A.P.Shroti with Shri Madhur Shukla, learned counsel for the respondents.

Challenging the order-dated 17.6.2009 - Annexure P/1 passed by respondent No.4 - The Executive Engineer (O&M).and, the order-dated 19.1.2011 - Annexure P/4 passed by respondent No.3 - The Superintending Engineer, petitioner has filed this writ petition.

Records indicate that petitioner is working as a Class III employee and by the impugned order a major punishment of stoppage of one increment with cumulative effect has been imposed upon the petitioner.

Shri Rajneesh Gupta, learned counsel for the petitioner, invites my attention to the statutory provisions with regard to appointment and conducting disciplinary action against the employee and points out that it is the Superintending Engineer, who is the appointing authority for all employees falling in Class III and IV category, and as per the schedule to the discipline and appeal rules, the competent authority to impose major punishment on a Class III employee is the Superintending Engineer.

An Executive Engineer is only authorized to impose minor punishment.

In the present case, it is stated that the petitioner is a Class III employee, his appointing authority is the Superintending Engineer and as per schedule to the discipline and appeal rules, it is the Superintending Engineer, who is empowered to impose major punishment as stoppage of increment with cumulative effect is termed as a major punishment in view of the law laid by the Supreme Court in the case of Kulwant Singh Gill versus State of Punjab, 1991 Supp (1) SCC 504.

Accordingly, it is argued by learned counsel for the petitioner that the action taken by the Executive Engineer, who is not the competent authority, is unsustainable.

Shri Rajneesh Gupta, learned counsel for the petitioner, referring to the appeal/representation in this regard submitted by the petitioner to the Superintending Engineer and the order - Annexure P/2 passed by the said authority rejecting the appeal without consideration, submits that the Superintending Engineer without taking note of the aforesaid legal ground has rejected the appeal/representation of the petitioner and, therefore, in doing so an error has been committed.

Even though the matter is pending for more than a year, respondents have not yet filed reply.

Considering the fact that the Superintending Engineer while rejecting the appeal/representation of the petitioner, vide Annexure P/2, has not adverted to consider this legal question, it is thought appropriate to remand the matter back to the said authority for reconsideration.

Accordingly, this petition is allowed in part.

Order-dated 19.1.2011 - Annexure P/2 passed by the Superintending Engineer is quashed and the matter is remanded back to the said authority to decide the appeal/representation of the petitioner 3 after considering all the grounds as have been raised in accordance to law by a speaking order, showing application of mind, within a period of 45 days from the date of receipt of certified copy of this order.

With the aforesaid direction, this writ petition stands disposed of.

Certified copy as per rules.

(RAJENDRA MENON) JUDGE Aks/-

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