

CASE NO.:
Appeal (civil) 3383 of 2007

PETITIONER:
State of Punjab

RESPONDENT:
Nirmal Singh

DATE OF JUDGMENT: 01/08/2007

BENCH:
H.K. Sema & Lokeshwar Singh Panta

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO. 3383 OF 2007
ARISING OUT OF
SPECIAL LEAVE PETITION (CIVIL) NO. 17250 OF 2006

H.K. SEMA, J.

(1) Leave granted.

(2) This appeal is directed against the judgment and order dated 3rd April, 2006 passed by the High Court of Punjab & Haryana at Chandigarh in CWP No. 10039 of 2005.

(3) Briefly stated, the facts are as under:

The respondent was working as Sub Divisional Engineer in Public Works Department (B&R). By an order dated 20.10.1999, the following charges were levelled against him:

"1. Breach of trust in making attempt to pilferage Govt. Material/Cement.

2. Negligence/ failure in the faithful discharge of his duties as Sub Divisional Engineer.

3. Concealment of facts by making wrong statement.

4. According approval to the indent for 200 bags of cement without assessing exact requirement.

5. Failure in getting a case registered against the guilty persons and further failure in supervision of Government material and

6. Failure to report to the authorities in time after being in the knowledge of the incident."

(4) The Competent Authority appointed Sh. B.D. Gupta, the then Superintending Engineer as Enquiry Officer. The Enquiry Officer submitted the report exonerating the respondent of the charges levelled against him. The Competent Authority disagreed with the finding of the Enquiry Officer and a notice was issued to the respondent along with a copy of the Enquiry Report and dissenting note. The respondent filed a reply to the show cause notice vide letter

dated 21.1.2000. The reply was rejected by affording the respondent an opportunity of personal hearing. Thereafter, the disciplinary authority, with the concurrence of the Punjab Public Service Commission, awarded punishment of stoppage of two annual increments with cumulative effect by an order dated 20.10.2003. Aggrieved thereby, the respondent filed a Review Appeal before the Authority on 22.1.2004. The said Review Appeal, preferred by the respondent, was considered by the Competent Authority and the same was rejected vide its order dated 24.6.2004. Aggrieved thereby, he preferred a Writ Petition before the High Court.

(5) The only ground on which the High Court has set aside the order of punishment dated 20.10.2003 and the order passed by the Competent Authority in Review dated 24.6.2004, rejecting the Review Appeal was that there was violation of the principles of natural justice inasmuch as the opportunity of personal hearing was not afforded to the respondent while dismissing the Review Appeal by an order dated 24.6.2004.

(6) Rule 21 of the Punjab Civil Service (Punishment & Appeal) Rules, 1970 deals with the review. A perusal of the aforesaid rule shows that there is no provision of personal hearing in regard to inflicting minor penalties. The Rule contemplates a personal hearing only when the Disciplinary Authority proposes to impose any of the major penalties specified in clauses (v) to (ix) of Rule 5 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses. Admittedly, by an order dated 20.10.2003, the respondent was inflicted punishment of stoppage of two increments with cumulative effect, which is a minor punishment. The High Court, in our view, was clearly in error in setting aside the order dated 24.6.2004 passed by the Competent Authority on the ground of violation of principles of natural justice. The High Court was also of the view that the order passed by the Competent Authority dated 24.6.2004 is not a speaking order. This finding of the High Court was not based on the material on record. We have gone through the order dated 24.6.2004 passed by the Competent Authority. In our view the order is supported with reasons.

(7) For the reasons aforesaid, the impugned order of the High Court is unsustainable in law. It is accordingly set aside. The order dated 24.6.2004 passed by the Competent Authority in the Review Appeal is restored.

(8) This appeal is allowed. The Writ Petition filed by the respondent stands dismissed. Parties are asked to bear their own costs.