

PUNJAB STATE ELECTRICITY BOARD AND ORS.

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v.

LEELA SINGH

JANUARY 22, 2007

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

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Service Law : Departmental Proceedings—Experience certificate—Inquiry regarding genuineness of—Meanwhile Administrative Member of State Electricity Board ordering the employee concerned to be continued and to deduct one year's service—Later, in a similar case, Board directing termination of services of such employees—Consequently, service of employee concerned also terminated—Held, services of employee concerned could not have been terminated on basis of decision of Board in the case of another employee—Board directed to initiate departmental proceedings against employee concerned—In exercise of jurisdiction under Article 142 of the Constitution, order of Administrative Member of the Board is also set aside—Constitution of India—Article 142.

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Respondent was appointed as lineman on the basis of an experience certificate in regard to genuineness whereof a vigilance inquiry was made. Meanwhile, on the representation of the respondent, the Administrative Member of the appellant-Punjab State Electricity Board, by his order dated 15.6.2001, allowed him to be continued after deducting one year's service. Later, in a similar case of another employee, the Board directed services of similarly placed employees to be terminated. Consequently, services of the respondent were terminated. However, his writ petition was allowed by the High Court. Aggrieved, the Board filed the appeal.

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Allowing the appeal, the Court

HELD : 1. The charge against the respondent is that he has committed fraud in obtaining the appointment by production of a forged experience certificate. The said charge was required to be proved in a duly constituted departmental proceeding. The services of the appellant could not have been directed to be terminated relying on and/or on the basis of the decision of the Board in the case of another employee. Interest of justice will be sub-

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A served if the appellant-Board is directed to initiate a departmental proceeding against the respondent herein. Ordered accordingly
[Paras 5 and 6] [1141-D-F]

B 2. Since the order dated 15.6.2001 of the Administrative Member of the appellant-Board has been given effect to, in exercise of jurisdiction under Article 142 of the Constitution of India, the said order is set aside also having regard to the fact that the Administrative Member of the appellant-Board alone could not have issued the same. This order is being passed in view of the well settled principle of law that if by reason of setting aside an illegal order, any other illegality is revived, the Court would be entitled to quash both the orders. [Para 7] [1141-G-H]

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 486 of 2007.

D From the Final Judgment/Order dated 17.8.2005 of the High Court of Punjab and Haryana at Chandigarh, in C.W.P. No. 17530/2004.

Satinder S. Gulati, Kamaldeep Kaur and Dr. Kailash Chand for the Appellants.

E Sanjeev Sharma, Gopal Dutt and A.P. Mohanty for the Respondent.

The Judgment of the Court was delivered by

S.B. SINHA, J. : 1. Leave Granted.

F 2. Respondent herein was appointed as a Lineman in the Punjab State Electricity Board. He was appointed on the basis of a purported experience certificate produced by him. A vigilance enquiry was made in regard to the genuineness thereof. However, before a regular departmental proceeding could be initiated, the respondent made a representation to the Administrative Member of the Appellant-Board on 15.6.2001, alleging that as he had been appointed long time back and despite the fact that he had submitted original certificates as demanded of him, he had not been given promotion and other financial benefits. The Administrative Member of the appellant-Board directed that the services of the respondent should be allowed to be continued after deducting one year's service. The said order is said to have been acted
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3. However, the Chairman of the appellant-Board having come across a similar problem in the case of another employee, directed the matter to be placed before the entire Board. It was decided that the services of similarly placed employees should be terminated apart from the employee concerned. Pursuant to the said decision, the services of the respondent herein was also terminated. The validity of the said order came to be questioned by the respondent by filing a writ petition before the Punjab and Haryana High Court which by reason of the impugned judgment and order dated 17.8.2005 has been allowed opinion that in view of the fact the respondent had already suffered one punishment and his name having not found place in Memorandum No. 12 dated 16.7.2002 he should be directed to be reinstated in service with all consequential benefits. The appellant-Board is thus before us.

4. The short question which arises for consideration is whether in the peculiar facts and circumstances of this case the Board could terminate the services of the respondent.

5. The charge against the respondent is that he has committed fraud in obtaining the appointment by production of a forged experience certificate. The said charge, in our considered opinion, was required to be proved in a duly constituted departmental proceeding. The services of the appellant could not have been directed to be terminated relying on and/or on the basis of the decision of the Board in the case of another employee.

6. We, therefore, are of the opinion that interest of justice will be subserved if the appellant-Board is directed to initiate a departmental proceeding against the respondent herein.

7. We are, however, not oblivious of the fact that the order dated 15.6.2001 of the Administrative Member of the appellant-Board has been given effect to. We, therefore, in exercise of our jurisdiction under Article 142 of the Constitution of India, set aside the order passed by the Administrative Member of the appellant-Board also having regard to the fact that the Administrative member of the appellant-Board alone could not have issued the same. This order is being passed in view of the well settled principles of law that if by reason of setting aside an illegal order, any other illegality is revived, the Court would be entitled to quash both the orders.

A 8. For the reasons aforementioned, while setting aside the order of termination passed as against the respondent, we also set aside the order dated 15.6.2001 passed by the Administrative Member of the appellant-Board upon giving liberty to the appellant-Board to initiate a full-fledged departmental proceedings against the respondent. The respondent may be reinstated in service but he may be placed under suspension. Appellant shall refund the amount which has been deducted from respondent's salary pursuant to the aforementioned order passed by the Administrative Member of the appellant-Board in the meanwhile. The appeal is allowed with the aforementioned direction.

C R.P.

Appeal allowed.