

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6692 of 2013
Reserved on: 11.08.2026
Decided on: 29.09.2026
Uploaded on: 29.09.2026

Yog Raj

...Petitioner

Versus

The Punjab National Bank Ltd. and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Nitin Thakur, Advocate.

For the respondents: Mr. Ajay Kumar, Senior Advocate
with Ms. Vanshika Sharma,
Advocate.

Jiya Lal Bhardwaj, Judge

The petitioner by way of present petition has
prayed for the following substantive reliefs:-

- "i) That the orders dated 13.9.2011 vide Annexure P-20, passed by the Respondent no 1 may kindly be quashed and set aside forthwith.*
- ii) That the orders passed by the Appellate Authority rejecting the appeal on 2.8.2001 vide Annexure P-13 and on 14.5.2007 vide Annexure P-15 may kindly be quashed and set-aside forthwith.*
- iii) That the suspension orders dated 16.9.1998 vide*

¹ Whether reporters of Local Papers may be allowed to see the judgment?

Annexure P-1 and the Charge Sheet dated 4.12.1998 vide Annexure P-2 issued by the Respondent no 2-incompetent authority may kindly be quashed and set-aside forthwith.

- iv) That the departmental proceedings including the Departmental Inquiry ; the Inquiry Report dated 13.9.1999 vide Annexure P-5 & Removal orders dated 24.1.2001, vide Annexure P-11 may kindly be quashed and set-aside forthwith.*
- v) That the Respondents may be directed to reinstate the petitioner in service in view of his acquittal in the criminal cases on 29.3.2011 vide Annexure P-16 to Annexure P-18 and even otherwise on facts and law supra with all the consequential benefits forthwith."*

2. The facts as emerged from the pleadings are that the petitioner was appointed as Clerk-cum-Cashier in the respondent-Bank in September, 1984 and joined his duties in Branch Office Ladraur, District Hamirpur, H.P. Thereafter, he served in Branch Office Bakloh Cantt, District Chamba from 1989 to 1992. In the month of October 1992, he was transferred and posted from Branch Office Bakloh Cantt to the office of District Coordinator, PNB at Chamba. It has been averred that the petitioner was though working as a Clerk-cum-Cashier in Branch Office at Bakloh Cantt, but after his posting in the office of District Coordinator of the respondent-Bank at Chamba, it was altogether a separate

establishment since October, 1992 to September, 1998. The petitioner had performed the work, duties and functions of preparing the office statements only and he had neither dealt with any cash transaction nor any office orders were issued and conveyed to him directing to deal with or undertake any cash transaction in any branch independently or in addition to his own duties.

3. The petitioner while posted in the Office of District Coordinator at Chamba, was put under suspension, vide office order dated 16.09.1998 (Annexure P-1). Thereafter, he was charge sheeted as per letter dated 04.12.1998 (Annexure P-2). The Articles of charge were served upon him and the first charge leveled against him was that while he was working as a Clerk-cum-Cashier in Branch Office Chamba from 01.12.1998 till 04.12.1998 i.e. by virtue of the duties allotted/assigned to him, he was required to enter the cash receipt and withdrawal vouchers in the Saving Fund Ledgers of the customers, but he had unauthorizedly started receiving cash amount from customers, due to which the entries of deposit and withdrawals in the passbook of the customers were at striking variance as per the Bank record, due to which, he alleged to have collected huge funds for

personal gains with ulterior motive. 15 customers of the Bank had submitted complaints alleging embezzlement and irregularities in their individual bank accounts. The second charge was that during the posting in the Ledger Section, he was bound to carry out the transactions of the customers in an honest and transparent manner, but in view of alleged irregular and fraudulent activities, he tarnished the image and reputation of the Bank and was alleged to have committed grave misconduct as per Clause 19.5 (d & j) of the Bipartite Settlement. The petitioner submitted reply and denied charges. Vide letter dated 16.02.1999 (Annexure P-4), additional charge was framed against him to the effect that he while working as Clerk-cum-Cashier in Branch Office Chamba, had issued a cheque No.232238 dated 20.12.1997 for Rs.50,000/- to Smt. Kesari Devi in view of FD receipt and committed to pay interest @ Rs.1,000/- per month. It was further alleged that the petitioner again committed to pay Rs.50,000/- to Smt. Kesari Devi in lieu of fixed deposit receipts. In another Account No. 8464 of Smt. Kesari Devi, the petitioner was alleged to have made fictitious entries of Rs.40,000/- and Rs.10,000/-. Similarly, in Account No.447 of one Sh. Mehar Chand Bhandari, the petitioner was alleged to

have made fictitious entries of Rs.20,000/- and Rs.10,000/- respectively. On the aforesaid articles of charge, an enquiry was conducted and the enquiry report dated 13.09.1999 was submitted.

4. After receipt of the enquiry report, the same was furnished to the petitioner, directing him to submit his response. On receipt of the enquiry report, the petitioner submitted his reply on 05.12.1999 (Annexure P-7) and averred that the findings in the enquiry report were based on no evidence and thus, the petitioner prayed for keeping the proceedings in abeyance till the criminal cases registered against him were decided.

5. Thereafter the petitioner was issued the show cause notice dated 05.01.2000 (Annexure P-8) proposing the penalty of removal from service without superannuary benefits with a direction to the petitioner to submit a reply to the show cause notice and appear in person. The petitioner submitted reply to the show cause notice on 14.02.2000 (Annexure P-9) stating that the proposed penalty may not be imposed and the entire proceedings may be kept in abeyance till the decision of criminal cases. The petitioner also submitted a supplementary reply dated 05.01.2001

(Annexure P-10) stating therein that the charges could not be proved on the basis of statements recorded by the Enquiry Officer and material collected behind the back of the petitioner in violation of the principles of natural justice and accordingly, prayed for reinstatement in service. However, respondent No.1 issued an order dated 24.01.2001 (Annexure P-11) imposing the penalty of removal of the petitioner from service with superannuary benefits as would be available at that stage and without disqualification from future employment.

6. The petitioner feeling aggrieved by the order of removal of his services vide order dated 24.01.2001 preferred an appeal before the Appellate Authority-cum-Zonal Manager Chandigarh on 19.03.2001 (Annexure P-12) requesting therein for setting aside order of penalty and reinstating his service. The petitioner without waiting the decision in the appeal, filed **CWP No.9362 of 2001** before the Hon'ble Punjab and Haryana High Court at Chandigarh. The petition was disposed of on 05.07.2001 with a direction to the Appellate Authority-cum-Zonal Manager to decide the appeal dated 19.03.2001 within one month. Against this order, the petitioner had preferred the Special Leave

Petition before the Hon'ble Supreme Court, which was dismissed on 15.03.2002.

7. The appeal preferred by the petitioner was dismissed vide order dated 02.08.2001 (Annexure P-13). Thereafter, the petitioner preferred another appeal before respondent No.3 on 12.03.2007 (Annexure P-14) requesting for his reinstatement, but the same was rejected on 14.05.2007 (Annexure P-15) in view of the earlier rejection order dated 02.08.2001 (Annexure P-13).

8. It has also been averred in the petition that the then Branch Manager, Branch Office Chamba, namely Shri Chaman Lal Arya had got registered three FIRs against the petitioner on 10.07.1998 and he was tried for commission of the aforesaid offences and in all three criminal cases, which were decided by the learned Chief Judicial Magistrate, Chamba, (in short 'learned CJM, Chamba') on 29.03.2011 vide Annexures P-16 to P-18 in which the petitioner was acquitted of the charges since the prosecution had failed to prove the case against him beyond all reasonable doubts. It was held that the petitioner had never dealt with the cash at the relevant time, whereas it was only one Sh. Yugal Kishore (PW-16) who was the Clerk-cum-Cashier. There was no

evidence to prove that the petitioner had ever received the cash amounts from customers or had made or changed the entries in the passbook or other records.

9. The petitioner after his acquittal submitted a representation dated 16.08.2011 (Annexure P-19) to the Regional Manager of the respondent-Bank requesting therein for his reinstatement when the charges in the charge sheet based on the complaints of customers were disproved against him. However, the said representation was rejected by respondent No.1 on 13.09.2011 (Annexure P-20) on the ground that the penalty of removal was imposed on the basis of departmental enquiry conducted by the Bank and the same is not liable to be altered after acquittal in criminal cases.

10. The petitioner feeling aggrieved by the order of rejection on his representation has approached this Court inter alia on the grounds that the findings recorded by the Enquiry Officer do not germane from the record. Further the complainant cannot be the Presenting Officer. One Sh. Lalif Mohammad was never cited as witness, who was examined by the Presenting Officer. The statement of one Smt. Nirmal Devi was recorded in the absence of the petitioner. It has

further been averred that since the petitioner was being tried for the commission of the offences in a criminal proceedings, the respondents could not have initiated the departmental proceedings against him and once the petitioner has been acquitted of the charges specifically holding therein that the petitioner was never dealt with the cash and at the relevant time, it was one Sh. Yugal Kishore (PW-16) who was the Clerk-cum-Cashier, the penalty imposed upon him deserves to be quashed and set aside, thereby reinstating him in service.

11. The respondent-Bank filed reply to the petition and averred that the petitioner is not entitled to any relief as is being claimed by him. The petition is neither competent nor maintainable under law. The petitioner is not entitled to file and maintain the present petition, since he was a workman and in the matter of employment or termination of a workman, the dispute is governed by the provisions of the Industrial Disputes Act, 1947, in view of the Sastry Award and bipartite settlement arrived at between the bank and its subordinate staff. There is alternative and efficacious remedy available to the petitioner, if any, with respect to his alleged termination. Moreover, there is no enforceable legal

right available to the petitioner against the respondents. The petition is also barred by the principle of res-judicata or under Order 2 Rule 2 of the Code of Civil Procedure or the analogous principles of res-judicata as applicable to the writ jurisdiction. The petitioner had challenged the order of his removal in CWP No.9362 of 2001 in the Hon'ble High Court of Punjab and Haryana and also carried the matter to the Hon'ble Supreme Court of India. It has further been averred that the irregularities committed by the petitioner relating to conducting of unauthorized business of receiving cash from the customers of the branch and not crediting the same to the respective accounts and allowing short withdrawals to the customers against such amounts were found. Further the petitioner had deeply eroded the confidence of the customers, who had been dealings with the Bank. By the unauthorized acts of the petitioner, the Bank's image had badly been affected and tarnished and the business growth of the branch also suffered. In view of the allegations, which tantamount to gross misconduct under the provisions of the Bipartite Settlement of Clause 19.5 (d and j), a charge sheet dated 04.12.1998 was served on the petitioner and he was advised to submit his reply within 15 days. After receipt of

the reply, the same was found not to be satisfactory and as such, it was found expedient that an enquiry proceeding be instituted in order to ascertain the truth of the allegations levelled against the petitioner. During the course of enquiry, the Branch Office had received additional complaints in addition to charge sheet dated 04.12.1998 and such additional charge sheet was served on the petitioner. No prejudice has been caused to the petitioner by serving additional charge sheet. The petitioner was allowed reasonable opportunity to place his defense in respect to supplementary charge sheet and also to disprove the charges leveled against him. After conducting the enquiry, the enquiry report was submitted, which was supplied to the petitioner and after receipt of his comments on the enquiry report, the Disciplinary Authority has passed the order based on the material and evidence produced. After overall analysis of the case and considering the charges proved in the enquiry, the Disciplinary Authority had proposed the punishment of removal from service without superannuation benefits. The petitioner was also given the opportunity of personal hearing and to file reply. The respondent-Bank was justified in conducting the departmental inquiry prior to the

petitioner being put to trial in terms of the provisions of the Bipartite Settlement. The allegation of the petitioner that complainant was made as Presenting Officer, it was stated that no prejudice has been caused to him as he was given all reasonable opportunity to defend his cause before the Enquiry Officer, Disciplinary Authority and Appellate Authority. The police had filed a challan before the trial Court on 27.11.2010, wherein the charges were framed subsequently and as such the respondent-Bank did not violate paragraph 19.24 of the Bipartite Settlement dated 19.10.1966 and as such prayed for dismissal of the petition.

12. The petitioner did not file rejoinder to the reply and thus, not controverted the averments made therein.

13. I have heard the learned counsel for the parties and also perused the record carefully.

14. Learned counsel representing the petitioner has vehemently argued that the enquiry conducted by the Enquiry Officer is not as per the procedure contemplated to conduct the enquiry. He further argued that the complainant cannot be a Presenting Officer. Lalif Mohammad who was examined as witness was not cited as witness and the statement of Smt. Nirmal Devi was recorded in absence of

the petitioner, which has vitiated the entire proceedings. He further argued that once the petitioner was acquitted of the charges by the criminal Court specifically holding that the petitioner had never dealt with the cash at the relevant time and one Sh. Yugal Kishore (PW-16) was the Clerk-cum-Cashier, the impugned order dated 13.09.2011, passed by the respondent-Bank rejecting the representation made by the petitioner is unsustainable in law.

15. Before proceeding to deal with the aforesaid submissions, it is relevant to mention that the Disciplinary Authority had imposed the penalty of removal from service with superannuation benefits, as would be due otherwise at first stage and without disqualification from future employment as per order dated 24.01.2001 (Annexure P-11). The petitioner feeling aggrieved by the said order passed by the Disciplinary Authority had preferred an appeal before respondent No.3. The petitioner had also simultaneously preferred the writ petition before the Punjab and Haryana High Court for quashing the charge sheet dated 04.12.1998, memo dated 16.02.1999 and order of penalty dated 24.01.2001 and the said writ petition filed by him was disposed of on 05.07.2001, directing the

respondent-Bank to decide the appeal preferred by him against the order of penalty imposed upon him, which he had submitted on 19.03.2001. The said appeal preferred by the petitioner came to be rejected on 02.08.2001 (Annexure P-13) and thereafter the petitioner had preferred the second appeal on 12.03.2007 (Annexure P-14), which was dismissed on 14.05.2007.

16. There is no explanation in the writ petition that why did the petitioner not approach the Court after dismissal of his statutory appeal on 02.08.2001. He preferred another appeal dated 12.03.2007, which otherwise was not maintainable. Not only this, the appeal preferred by the petitioner came to be rejected on 14.05.2007 (Annexure P-15) and the petitioner did not assail the said order and made representation on 16.08.2011 (Annexure P-19) for revoking/quashing the charge sheet, enquiry report and reinstating him in service on the basis of decisions by the learned trial Court passed on 29.03.2011 (Annexure P-16 to P-18). The petitioner had woken up from slumber only after the order of acquittal passed by the learned CJM, Chamba.

17. Though, the respondent-Bank has not taken the plea of delay and laches, but this Court cannot ignore the

said fact for the purpose of exercising its extraordinary jurisdiction under Article 226 of the Constitution of India and the petition on the point of delay and laches itself deserves dismissal. No reason has been assigned that why the petitioner did not challenge the order passed in appeal on 02.08.2001 till the decision by the trial Court on 29.03.2011. The second appeal was preferred by the petitioner on 12.03.2007, which was not otherwise maintainable. There is huge delay from rejection of statutory appeal on 02.08.2001 till filing the petition in the year 2013. Mere filing the appeal which was not maintainable cannot enlarge the period of limitation. Even on merits, no case has been made out, which warrants interference by this Court while exercising the extraordinary jurisdiction under Article 226 of the Constitution.

18. Learned counsel representing the petitioner has vehemently argued that the proper procedure was not followed by the Enquiry Officer at the time of conducting the inquiry. However, the enquiry report, if perused, the Enquiry Officer after considering the evidence produced by the parties and also considering the irregularities having been committed by the petitioner, has returned the findings,

which have been considered by the Disciplinary Authority, and once the petitioner has been found guilty for committing the offence, the Disciplinary Authority is not required to give elaborate reasons, while imposing the penalty.

19. Learned counsel for the petitioner has placed reliance upon the judgments passed by the Hon'ble Supreme Court in ***Regional Manager & Disciplinary Authority, State Bank of India, Hyderabad and another vs. S. Mohammed Gaffar***, (2002) 7 SCC 168, ***Pawan Pratap Singh and others vs. Reevan Singh and others***, (2011) 3 SCC 267, ***Union of India and another vs. Guwahati Carbon Limited***, (2012) 11 SCC 651 and ***Anant R. Kulkarni vs. Y.P. Education Society and others***, (2013) 6 SCC 515 to buttress his submissions that the High Court under Article 226 of the Constitution of India has vast powers. However, keeping in view the conduct of the petitioner, particularly the fact that the petitioner has been found to have committed the irregularities, this Court cannot substitute the view taken by the Disciplinary Authority, more especially when the order of penalty has been affirmed by the Appellate Authority while dismissing the appeal.

20. The Hon'ble Supreme Court in ***State of Andhra Pradesh and others vs. S. Sree Rama Rao***, AIR 1963 SC 1723 has held that the High Court is not constituted, in a proceeding under Article 226 of the Constitution as a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence. The relevant paragraphs of the judgment reads as under:-

"7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court, must be applied, and if that rule be not applied, the High Court in a petition under Article 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: iris concerned to determine whether the

enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent Officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

21. In the present case, the Enquiry Officer, Disciplinary Authority and Appellate Authority have taken into consideration the material placed on record by the parties. The Enquiry Officer had returned the findings on the basis of the material placed on record and the evidence adduced on record and held that the articles of charge have

been proved against the petitioner. Thereafter, the Disciplinary Authority has imposed appropriate penalty, which cannot be said to be disproportionate to the charges and the Appellate Authority has affirmed the penalty imposed by the Disciplinary Authority and this Court while exercising the extraordinary jurisdiction cannot substitute the said view taken by the Disciplinary Authority, which has been affirmed by the Appellate Authority.

22. Learned counsel for the petitioner has submitted that the complainant cannot be the Presenting Officer. However, the said submission cannot be accepted for the reason that no prejudice has been caused by appointing the complainant as Presenting Officer.

23. The another submission made by the learned counsel for petitioner that one Lalif Mohammad was never cited as a witness, is concerned, the said fact deserves to be ignored for the reason that the Enquiry Officer has returned the findings on the basis of the evidence of other persons, who have been examined and also specifically recorded the finding that the petitioner had refunded the amount to the complainant Sh. Nihala Ram, Smt. Nirmal, Smt. Pawan Kumari Mahajan, Sh. Mohinder Singh and so on. Once the

said fact has not been disputed by the petitioner and there are no averments to that effect in the petition, the charges framed against the petitioner were proved and this Court cannot substitute the view taken by the Disciplinary Authority, which has been affirmed by the Appellate Authority.

24. Learned counsel for the petitioner further vehemently argued that the statement of Smt. Nirmal Devi has been recorded in the absence of the petitioner. Even if the statement of Smt. Nirmal Devi is ignored, there is ample evidence on record to prove that the petitioner while posted as Clerk-cum-Cashier had received the amount from other customers, which was refunded by him. This shows that the petitioner was involved in tarnishing the image of the Bank and thus no illegality can be found either in the enquiry conducted by the Enquiry Officer or the subsequent orders passed by the Disciplinary Authority and the Appellate Authority. Therefore, even on merits, no case has been carved out by the petitioner to interfere with the order of penalty imposed by the Disciplinary Authority which has been affirmed by the Appellate Authority. As a result thereof, I do not find any merit in the present petition and

the same is dismissed.

25. Consequently, in view of the observations made hereinabove, the writ petition filed by the petitioner is dismissed on delay and laches and also on merits. However, there shall be no order as to costs. Pending application(s), if any, stand disposed of.

29th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**