IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 15827 of 2011

Date of Decision : July 16, 2015

R. K. Sharma .... Petitioner

Vs.

The Central Bank of India and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. R. K. Chopra, Senior Advocate
with Mr. Pawan Kumar, Advocate
for the petitioner.

Mr. Aalok Jagga, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order dated 16.10.2009 (Annexure P-5), through which he was ordered to be dismissed from service, order dated 25.02.2010 (Annexure P-7), vide which appeal of the petitioner against the order of punishment was rejected by the Appellate Authority, order dated 19.07.2010 (Annexure P-9), rejecting the review petition filed by the petitioner, as also the order dated

19.04.2011 (Annexure P-11), vide which the petitioner was conveyed that his mercy appeal has also been rejected being not maintainable. The petitioner further prays for the issuance of directions to the respondents to reinstate him in service with all consequential benefits.

The facts, in brevity, leading to the filing of the present writ petition, as borne out from the arguments raised at the bar and which have emerged from the record are that while the petitioner was posted as Assistant Manager with the respondent – Central Bank of India (hereinafter referred to as – the Bank) and posted at the Sultanwind Road Branch at Amritsar, he was served with a charge-sheet through which the following charges were framed against the petitioner :

1. Mr. R. K. Sharma has not checked the genuineness of transaction while passing the debit and credit entries of pension and Nominal Pension A/Cs has been debited at number of times whereas the pension is to be debited once during the month.
2. He has not followed the proper banking procedure, such as preparation of Debit and Credit Vouchers. He has passed the Debit/Credit entries in computer system only and no physical record were created and kept in record.
3. He has passed and authorized most of the debits to

Nominal Pension A/Cs without even tallying the total amount of pension scroll with debit amount of IBCA raised on Link branch for reimbursement of pension.

4. He has not observed the abnormal amount of transaction in the staff account namely Sh. Ravi Kumar Bhatia, wherein large amount of fake credits were given and simultaneously debits in the shape of cash, transfer and through clearing without any care.

5. He has not checked daily supplementary book allotted to him.

In his statement of defence, the petitioner admitted to all the charges levelled against him and prayed for leniency.

Along with the petitioner, four other officers of the Bank namely P. L. Dua, H. S. Uppal, I. J. Lakra and R. K. Bhatia had also been charge-sheeted.

The Inquiry Officer, on the basis of admission of guilt on the part of the petitioner, submitted his report, on the consideration of which, the punishing Authority awarded the following punishment upon the petitioner :-

"Dismissal which shall ordinarily be

> *a disqualification for future employment as per Regulation 4(j) of Central Bank of India Officers Employees (Discipline & Appeal) Regulation 1976."*

The appeal of the petitioner, against the punishment order, was considered and dismissed by the Appellate Authority and so was the review petition filed by him. His mercy petition, being not maintainable, was also ordered to be dismissed. In the background of the above facts, the present petition has been filed for the above referred reliefs.

Without disputing the admission of guilt on the part of the petitioner, learned senior counsel appearing on his behalf has submitted that the punishment meted out to the petitioner was discriminatory. He submitted that the role attributed to P. L. Dua, H. S. Uppal, I. J. Lakra was the same, as attributed to the petitioner and like the petitioner, the above said officers had also admitted to their guilt. In spite of the same, the other officers were dealt with lightly, whereas the petitioner was ordered to be dismissed from service.

Learned senior counsel further submitted that the punishment meted out to the petitioner was also disproportionate, when compared to his misconduct. It was submitted that the petitioner had over 31 years of regular service and in view of this fact, he deserved a lesser punishment than the one which was inflicted upon him.

Learned counsel appearing on behalf of the respondent Bank has defended the imposition of the penalty of dismissal of the petitioner. It was submitted that neither the action of the respondent Bank was discriminatory nor was the punishment meted out to him was disproportionate. In support of his arguments, learned counsel for the respondent Bank relied upon the following judgments of the Apex Court :-

1. **Chairman & Managing Director, United Commercial Bank & Ors. vs. P. C. Kakkar** reported as **2003 (4) SCC 364** and

2. **Damoh Panna Sagar Rural Regional Bank vs. Munna Lal Jain** reported as **2005 (10) SCC 84.**

The charges against the petitioner are extremely serious and include several irregularities and acts of omission and commission on his part. He was charged for not checking the genuineness of transactions while passing debit and credit entries of pension. The nominal pension accounts were found to have been debited at a number of times, whereas they were required to be debited only once in a month. He was also charged for not following the prescribed banking procedure for preparation of debit and credit vouchers. He was further charged to have passed debit and credit entries in the computer system only, for which, as required, no physical record was created by him. He was further charged to have authorized and approved most of the debit entries made in the nominal pension accounts without even tallying the Pension Scroll with the debit amount of IBCA raised on link branch. The other charge against the petitioner was of not having observed the abnormal transactions in the Staff accounts being done by his subordinate Ravi Kumar Bhatia, where large amount of fictitious entries were being made, on the basis of which cash and other transfers were being done. Still further, the petitioner was charged for not having checked the daily supplementary work allotted to him.

The petitioner admitted to his guilt and prayed for leniency. After considering the entire facts, the punishing Authority came to the conclusion that the petitioner did not deserve any leniency and ordered his dismissal from service. His appeal, review and the mercy petition were considered and rejected on the same analogy.

In view of the grave misconduct on the part of the petitioner, which was admitted by him, he has been dismissed from service. The misconduct was not of one single mistake but covered a series of transactions over a period of time. Such punishment does not shock my conscience, and therefore, I am not inclined to interfere with the same.

The plea of discrimination raised on behalf of the petitioner also needs to be considered to be rejected. So far as charge against P. L. Dua is concerned, he was given a lesser punishment than the petitioner on the ground that it is he, who had reported the matter to the Regional Office with regard to the irregularities taking place in the Branch and on his report, quick action for recovery was taken and such action yielded recovery of several lacs of rupees. P. L. Dua was also not In-charge of the Pension Department, where the irregularities had taken place and was merely assisting the Branch in exigency of work. It was in these circumstances that he was granted lesser punishment than the petitioner.

So far as I. J. Lakra was concerned, he was working as Special Assistant in the Branch of the respondent Bank, which is a post much lower than the post being held by the petitioner, who was working as Assistant Manager. The petitioner, being on a higher post, was directly concerned and related with the credit and debit of the pension accounts. The irregularities with regard to the pension accounts was directly under his responsibility. So far as I. J. Lakra was concerned, he was only a Special Assistant and his work was clerical in nature. Thus, the case of the petitioner could not be compared with that of I. J. Lakra.

H. S. Uppal was a Senior Branch Manager and was overall responsible for the working of the Branch, whereas the petitioner was directly responsible for dealing with the pension accounts where the irregularities took place. For dereliction of supervisory duty, H. S. Uppal was punished with reduction of scales of pay till the date of his superannuation.

It is clear from the above that the role of the petitioner cannot be compared to that of P. L. Dua, H. S. Uppal and I. J. Lakra as the petitioner was directly responsible for the pension accounts, where the irregularities took place. He was dealt with accordingly. The other officers, who were indirectly concerned, were also dealt with and punished with punishments commensurating with their respective roles.

The above facts reveal no discrimination.

The Apex Court in the case of **P. C. Kakkar** ***(supra)*** has held as under :-

> ***"13.*** *To put difference unless the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the Court/Tribunal, there is no scope for interference. Further to certain litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the Disciplinary Authority or the Appellate Authority to reconsider the penalty imposed.*
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> ***14.*** *In the case at hand the High Court did not record any reason as*

to how and why it found the punishment shockingly disproportionate. Even there is no discussion on this aspect. The only discernible reason was the punishment awarded in M.L. Keshwani's case. As was observed by this Court in Balbir Chand vs. Food Corporation of India Ltd. and Ors. (1997 [3] SCC 371), even if a co-delinquent is given lesser punishment it cannot be a ground for interference. Even such a plea was not available to be given credence as the allegations were contextually different.

15. *A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are*

> *inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik (1996 (9) SCC 69), it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."*

Similar views have been expressed in another judgment of the Apex Court in **Munna Lal Jain** ***(supra)***, wherein it has been held as under :-

> ***"14.*** *The common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the Wednesbury's case (supra) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision- making process and not the decision."*

In view of the above facts and the settled position of law, finding no merit in the present petition, the same is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

July 16, 2015
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