

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**C.W.P. No.13469 of 2015**

**Date of Decision : 09.07.2015**

Jagbir Singh Chahar

..... Petitioner

Versus

Board of Directors, Sarva Haryana Gramin Bank and Anr. .... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. R.K. Malik, Sr. Advocate  
with Mr. Kuldeep Sheoran, Advocate  
for the petitioner.

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**AJAY TEWARI, J. (Oral)**

By this petition the petitioner has challenged the order of dismissal dated 31.10.2013 (Annexure P-5) and the order passed in appeal dated 09.10.2014 (Annexure P-7) rejecting the same.

The petitioner was appointed as Officer in Haryana Kshetriya Gram Bank (Re-designated as Sarva Haryana Gramin Bank) on 01.08.1984 and ultimately promoted as Scale-III Senior Manager at the Branch Office, Jhajjar and remained posted there from 29.06.2004 to 08.11.2008. He was issued a charge-sheet for the said service period in which the sum and substance was that under his ward one Neeraj Khurana had embezzled an amount of Rs.14,04,104/- and despite the fraud having been detected by him he did not report it to the higher authorities. Instead of taking full-fledged action he tried to cover up the mistakes and got partial recoveries

made. It was charged that this fraud had been done by using the password of the petitioner. The extract of other charges against the petitioner are as follows:-

| <i>Charge No.</i>                                                                                                              | <i>Case of Defence</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <i>Observations</i>                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.2(a&amp;b)</b><br>Cash book was not being generated & checked and morning checking was also not being done at the branch. | <p>The morning checking was also being done by the concerned officer. The duty to generate and check the cash book was assigned to the second officer and he has performed his duty.</p> <p>Sh. Neeraj Khurana had committed the fraud by taking undue benefit of the fact that morning checking could not be carried out at the branch due to obvious reasons by the 2<sup>nd</sup> Officer at Jhajjar. He further states that volume of work at the branch did not permit him to perform the duties of morning checking and for generation/checking of daily reports as is expected by the bank.</p> | <p>The Cash book was not being generated from the system and checked and also morning checking was not being done during the incumbency of Mr. Chahar. The payment vouchers pertaining to fraudulent entries are not entered in the manual cash book exhibited by management.</p> <p>Moreover, Shri J.S. Chahar misreported and misguided the Head Office by reporting that morning checking is being done regularly. Hence, charge 1.2(a&amp;b) is proved.</p> |
| <b>1.2(c)</b><br>Daily reports were not being generated and checked at the branch.                                             | <p>The volume of work did not permit me to perform the duties of morning checking and for generation/checking of daily reports as is expected by the bank</p>                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Daily reports were not generated and checked at the branch. Moreover, Shri Chahar has admitted in his defence statement as self witness dated 10.06.2013 that the volume of work did not permit him to perform the duties of morning checking and for generation/checking of daily reports as is expected by the bank. Hence, charge 1.2(c) is proved.</p>                                                                                                   |

| <b><i>Charge No.</i></b>                                                                                                   | <b><i>Case of Defence</i></b>                                                                     | <b><i>Observations</i></b>                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.2(d)</b><br>Physical checking of cash was not being done at the time of close of business hours for overnight custody | The cash was checked and closed by the concerned officer and checked on fortnightly basis by him. | Shri Chahar has not submitted any conclusive evidence to prove that physical checking of cash was being done by him on fortnightly basis. Hence, charge 1.2(d) is proved.                                                                                                                                                   |
| <b>1.2(e)</b><br>Passwords were shared with Sh. Neeraj Khurana, Office Assistant                                           | The password was not shared but stolen by Mr. Neeraj Khurana.                                     | Although Mr. Chahar has stated that the password was not shared by stolen by Mr. Neeraj Khurana yet he has failed to elaborate as to how he has stolen the password of Mr. Chahar, nor he has provided any documentary evidence to prove his statement.                                                                     |
|                                                                                                                            |                                                                                                   | Whereas the PO by pointing out to management exhibits MW1 to MW49 has clearly established that passwords were shared with Mr. Khurana as bank's fund have been misappropriated fraudulently with normal as well as superuser password of Mr. J.S. Chahar which have been corroborated by Shri Dalbir Singh, Senior Manager. |
| <b>1.2(f)</b><br>Vouchers were not checked and signed                                                                      | Vouchers have been checked and sealed and signed by the concerned officer when checked books      | Vouchers were not checked & signed and physical checking of number of vouchers was not done during the fraud period exhibited by management and which have been corroborated by Shri. C.J. Khurana, Senior Manager. Hence, charge 1.2 (f) is proved.                                                                        |

| <i><b>Charge No.</b></i>                                                                                                                                                                                                                                                                                                            | <i><b>Case of Defence</b></i>                                                                                                                 | <i><b>Observations</b></i>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.2(g)</b><br>Daily vouchers were being stitched and signed without checking and making physical counting as a result of which most of the fraudulent vouchers are not held on record                                                                                                                                            | Vouchers have been checked and sealed and signed by the concerned officer when checked books                                                  | Daily vouchers were being stitched and signed without checking and making physical counting and vouchers relating to the fraudulent entries are not held on record as exhibited by Management and which have been corroborated by Shri. C.J. Khurana, Senior Manager. Hence, charge 1.2(g) is proved.                                                                                                                                                                                 |
| <b>1.2(h&amp;i)</b><br>Due to some tacit understanding, Sh. Neeraj Khurana debited the Saving Fund A/c No.119 of Sh. J.S. Chahar with Rs.30,000/-, Rs. 10,000/- and Rs.10,000/- on 24.04.2007, 07.03.2007 and 10.03.2007 respectively and credited the same in his own account. The concerned vouchers are also not held on record. | At this stage I am not recollecting this transactions. It seems that Mr. Khurana has credited these entries without my knowledge and consent. | Mr. Chahar (CSO) did not object to debit of his account thrice with total amount of Rs.50,000/- by Shri Khurana which he credited in his own account and later on stating that Mr. Khurana did it without his knowledge and consent proves the charge that there was some tacit understanding between both of them and as a result fraud has been committed by Mr. Neeraj Khurana in connivance with Sh. J.S. Chahar during his incumbency at BO: Jhajjar. Charge 1.2(h&i) is proved. |

Charge No.2 was related to recklessness in financing dubious persons in dubious activities in dubious manner.

With regard to charge relating to the defalcation by Sh. Neeraj

Khurana and the other procedural irregularities which permitted this fraud to happen, the ground taken was that the petitioner did not have the knowledge of computers and his password may have been 'stolen by Sh. Neeraj Khurana' and as regard the procedural irregularities the petitioner stated (without butter melting in his mouth) that he did not have the time to conduct all those procedural safeguards like physical checking of cash, voucher balancing etc. As regards the charge of reckless financing, the same was also established by documentation. Having been found guilty by the inquiry officer the disciplinary authority dismissed the petitioner from service. In appeal as well as in the present writ petition the only ground taken by the petitioner is that there was no allegation that the petitioner was conniving with the said Sh. Neeraj Khurana and the justification is that the petitioner's password may have been stolen and that he did not have the time to fulfil the procedural safeguards required by the office - even though in the initial reply to the charge-sheet his stand was that all procedural safeguards had been followed. His appeal having been dismissed he has now filed the present writ petition where in addition to those grounds the only legal ground urged is that once the petitioner had asked for personal hearing the order could not have been passed without that personal hearing having been granted and that in other branches also the defalcation was done by the said Neeraj Khurana on his transfer but the Managers were not awarded the punishment of dismissal but were awarded minor punishment.

As regards the argument that personal hearing was not granted, it is trite to say that the rule of audi alteram partem is not an absolute rule.

The important thing which a Court is to see is whether all the contentions of

the employee have been considered. In ***Oriental Bank of Commerce and another vs. R.K. Uppal***, reported as ***(2011) 8 SCC 695***, it was held as follows:-

*“21. However, personal hearing may not be required where the appellate authority, on consideration of the entire material placed before it, confirms, reduces or set aside the order appealed against. Regulation 17 of the 1982 Regulations does not require that in all situations personal hearing must be afforded to the delinquent by the appellate authority. The view taken by the Full Bench of Punjab and Haryana High Court in the case of **Ram Niwas Bansal** is too expansive and wide and cannot be held to be laying down correct law particularly in light of the judgment of this Court in **Mahendra Kumar Singhal**. We answer this question accordingly.”*

Looked at under this parameter, I am satisfied that all contentions raised by the petitioner have been considered by the authorities.

As regard the argument that he should also be given only minor punishment instead of dismissal from service like another managers, it may be noticed that those charge-sheets are not before this Court and the petitioner has not shown that Charge No.2 was a part of those charge-sheets and therefore it cannot be said that the petitioner should also be given only minor punishment instead of dismissal from service.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**July 09, 2015**

*ashish*

**( AJAY TEWARI )**  
**JUDGE**