IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No.22316 of 2015 (O&M)
Date of decision : October 16, 2015

Ramesh Lal .....Petitioner

Versus

Oriental Bank of Commerce and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinod Bhardwaj, Advocate
for the petitioner.

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LISA GILL, J.

Prayer is for quashing of order dated 02.01.2013 passed by disciplinary authority and order dated 31.01.2013 passed by the appellate authority. Vide order dated 02.01.2013 petitioner has been visited with the penalty of compulsory retirement with superannuation benefits but without disqualification from future employment. This punishment has been upheld by the appellate authority vide impugned order dated 31.01.2013 (Annexure P-5).

Learned counsel for the petitioner vehemently argues that punishment imposed upon the petitioner is not commensurate with the charge against him. Furthermore, keeping in view the unblemished service of 18 years a lenient view should have been taken by the authorities.

Charge against the petitioner is that while he was posted as Head Cashier with the respondent-Bank at Longowal, he fraudulently did not deposit ₹1,75,000/- which was handed over to him at cash counter by a customer on 06.09.2011 for credit in the account of M/s Makhan Karyana Store. It was reported that said pay-in-slip voucher was missing from the branch record and scroll number of the voucher had also been deleted. Petitioner, however, deposited the said cash in the relevant account on 12.09.2011 itself after receiving the compliant from the customer at the Branch on 12.09.2011.

Charge sheet under Regular 5 (j) of Bipartite settlement dated 10.04.2002 was issued to the petitioner vide memo dated 11.07.2012 by the Disciplinary Authority for gross misconduct by doing an act prejudicial to the interest of the Bank. An enquiry into the charges levelled against him was instituted and Suresh Kumar Wadhwa Chief Manager, Patiala was appointed as Enquiring authority.

Vide report dated 31.10.2012 charges against the petitioner were found to be proved. Copy of the inquiry report was sent to the petitioner vide letter dated 01.11.2012 for representing thereon within 10 days of receipt of the letter.

Disciplinary authority after considering the inquiry report as well as reply concurred with the findings of the inquiry authority and held that the petitioner did not discharge his duties with devotion and diligence and his act was a breach of trust between the bank and the customer.

In this situation, punishment of compulsory retirement with superannuation benefits but without disqualification from future employment was imposed under para 6 (c) of the Bipartite settlement dated 10.04.2002. Petitioner again submitted a representation before the disciplinary authority, which was considered but was not found tenable.

Appeal dated 28.01.2013 (Annexure P-4) was preferred by the petitioner wherein he admits having committed a mistake but prays for leniency in the sentence.

Appellate authority after minutely considering each and every ground raised by the petitioner upheld the punishment imposed upon him vide order dated 31.01.2013, Annexure P-5.

Aggrieved therefrom petitioner has preferred the instant writ petition after a period of over two and a half years with a prayer that he should be reinstated on his original post with all consequential benefits. Having heard learned counsel at length and going through the petition, I find no ground to interfere in the impugned orders.

It is not denied that there is no procedural irregularity in the inquiry conducted against the petitioner. Proper and complete opportunity of hearing was afforded to him. In fact, no such ground has even been raised before me. It is pleaded that leniency in sentence should have been afforded.

It is to be noticed that the petitioner himself has admitted commission of the act as charged. Plea taken is that it was on account of some mental tension that this aberration took place and no loss has been caused to the bank or anybody else, therefore, penalty imposed is uncalled for. Petitioner relies on a medical certificate (Annexure P-1) issued by a private Doctor to submit that he was suffering from mental disturbance. Prescription relied upon reads as under:-

04/09/2011

Sh. Ramesh Lal r/o Gandhi Nagar PTA
46 Yrs M PTA

Stren
Mental disturbance .... (medicines prescribed)
h/o
Head ache

- Depression
- (due to some family problem as told by patient)
- Anorexic

Sd/- 04/09/2011"

Apart from the fact that a single prescription from a private clinic does not in any case prove the petitioner to be so afflicted to have walked away with said amount and thereafter deposit it on it being brought to notice by the customer, there is no other document on record to show that the petitioner was afflicted with any such disability or mental disturbance. Fact that no loss has been caused to either Bank or the customer does not afford any ground to the petitioner to escape penalty. Authority has in any case taken a lenient view while imposing penalty. Petitioner has been compulsorily retired alongwith all retiral benefits and without disqualification for further employment. Therefore, it cannot be said that further leniency is required to be shown to the petitioner.

Similarly reliance on decision dated 23.07.2015 in CWP No. 20961 of 2014 (Annexure P-6) is misplaced as in the said case discrimination had been pleaded and employees, similarly situated to the petitioner therein had been afforded benefit of lesser punishment. It is in this situation that this Court remitted the matter to the punishing authority to reconsider the matter. No such ground is made out in the present case. No such discrimination has been pleaded or set forth. Employees working in financial institutions are expected to display utmost honesty and integrity. There is no infirmity or illegality in the impugned orders which warrant interference by this Court.

Writ petition is, accordingly, dismissed.

(Lisa Gill)
Judge

October 16, 2015
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