

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

CWP No.4096 of 2015 (O&M)

Date of Decision: 26.08.2015

Parshotam Lal

....Petitioner

Vs.

National Bank for Agriculture and Rural Development and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr. Jagdeep Jaswal,
for the petitioner.

Mr. Deepender Singh, Advocate
for the respondents.

Amol Rattan Singh, J (Oral)

Civil Misc. No.11038 of 2015

Allowed as prayed for.

Reply filed on behalf of respondents No.1 to 3, along with
Annexure R-1, is taken on record, subject to all just exceptions.

Civil Writ Petition No.4096 of 2015

1. The petitioner in this case had been working as a Development Assistant in the respondent-National Bank for Agriculture & Rural Development, when he was issued a charge-sheet on 25.04.2007 (Annexure P-1), making out various charges therein against him, the essence of which is that large sums of money had been embezzled. Similar charge-sheets are stated to have been issued to some of his co-employees also.

The petitioner replied to the said chargesheet on 28.05.2007 (a copy thereof is annexed as Annexure P-2), after which an enquiry officer was appointed, who, according to the petitioner, conducted the enquiry proceedings within a period of three hours. The petitioner, allegedly, was not supplied a list of the witnesses to be examined and documents which were relied upon by the management. After the enquiry officer had held against the petitioner, vide his report dated 20.02.2008 (Annexure P-3), the petitioner was eventually dismissed from service, vide the impugned order dated 27.11.2008, passed by the Chief General Manager (respondent No.3), which order, according to the respondents in their reply, was issued after the petitioner had submitted his explanation (presumably to a show cause notice issued to him). The said order was appealed against by the petitioner but the appeal too was dismissed by the 2nd respondent on 03.02.2009 (Annexure P-6).

The said two orders, as also the chargesheet and the enquiry proceedings, are under challenge in the present writ petition.

2. Though there is undoubtedly a delay of at least 6 years in approaching this Court, learned counsel for the petitioner has submitted that an identical chargesheet, issued to one Arvind Singh Arora, also resulting in dismissal of that employee, was challenged by him in the High Court of Uttarakhand, which challenge was rejected, but in appeal, the hon'ble Supreme Court, vide order dated 05.12.2014 (Annexure P-7), passed in

Civil Appeal No.10809 of 2014, titled as Arvind Singh Arora Vs. The National Bank for Agriculture & Rural Development and others,

allowed the same, holding as follows:-

“9. The narration of the facts, above mentioned, indicates quite clearly that the procedure adopted by the Inquiry Officer was completely unsatisfactory and arbitrary. No opportunity was given to the appellate either to examine the documents that were sought to be relied upon by the Inquiry Officer and indeed copies of the documents were not made available to the appellant. Similarly, the Inquiry Officer examined three witnesses without giving an opportunity to the appellant to even how their names in advance.

10. In the absence of any proper procedure having been following by the inquiry officer, there is no doubt that the departmental proceedings require to be quashed and we do so accordingly.

11. As a consequence of quashing the disciplinary proceedings as well as the inquiry report, we set aside the order of dismissal passed against the appellant and the order rejecting his departmental appeal as well as the order dismissing his writ petition.

12. The appeal is allowed in the above terms. The appellant will be entitled to all consequential benefits. No costs.”

The petitioner, therefore, submits that the circumstances being the same, inasmuch as the Apex Court held identical enquiry proceedings to be vitiated, arising out of the same cause of action, delay on the part of the petitioner to approach this Court, would not stand in his way.

3. Learned counsel for the petitioner further submits that two co-employees of the petitioner, similarly situated, also chargesheeted as the petitioner was and dismissed from service, had filed Civil Writ Petitions

No.11202 of 2010 and 22244 of 2010 in this Court and subsequently, one employee, namely Rajinder Singh, had filed CWP No.2745 of 2015. The aforesaid writ petitions were allowed by a coordinate Bench, vide order dated 23.04.2015, a copy of which has been produced in Court by learned counsel.

4. Mr. Deepender Singh, learned counsel appearing for the respondents, while contesting the matter on merits, submitted that, as a matter of fact, the petitioner had been given due opportunity by access to the documents relied upon by the bank at the time of enquiry proceedings, and he had actually refused to examine them after admitting the authenticity of the documents. As such, he cannot be given the benefit of the judgment of the Supreme Court.

However, on a specific query to the learned counsel, as to whether an identical situation also existed in the case of Arvind Singh Arora (appellant before the Supreme Court in the aforesaid appeal), he could not deny the same.

5. Keeping in view the above fact, that identical enquiry proceedings originating out of the same set of circumstances and essentially the same charges, have already been held to be vitiated by the Supreme Court in Civil Appeal No.10809 of 2014, this writ petition is allowed and the impugned orders dated 27.11.2008 (Annexure P-4) and 03.02.2009 (Annexure P-6) are quashed. The petitioner is ordered to be reinstated in

service immediately, with consequential benefits. However, arrears of salary etc, to be paid to the petitioner, for the period between his dismissal and reinstatement, shall be restricted to 38 months prior to the date of filing of this writ petition, on account of the delay by him, in challenging the impugned orders.

August 26, 2015
vcgarg

(Amol Rattan Singh)
Judge