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

CWP-9240-2014(O&M)
Date of Decision: 24.03.2015

Ramesh Kumar Katiwal **....Petitioner**

VS

Sarva Haryana Gramin Bank and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

****

Present: Mr.Parveen Gupta, Advocate for the petitioner.

****

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)

This writ petition has been filed against the order of dismissal passed against the petitioner by the Disciplinary Authority as upheld by the Appellate Authority. The allegations are that on the fateful date the petitioner was the Manager of the respondent bank's branch at Dhani Mahu, District Bhiwani. The Cashier had to go and deposit some cash in the sponsor bank which is the Punjab National Bank and in his absence the petitioner was incharge of the cash. He stole Rs. 13,000/- from the cash box. A regular inquiry was ordered. The inquiry officer found him guilty and the disciplinary authority imposed a punishment of dismissal which was upheld by the impugned order Annexure P-7. It may be noticed that the prime piece of evidence against the petitioner was a recording in the CCTV cameras where he was shown as taking cash out of the cash box and stuffing it into his socks. It is against the backdrop of these facts that the present petition is being decided.

The first argument of learned counsel is that before imposing penalty an advice had been sought from the Chief Vigilance Officer of the sponsor bank i.e. Punjab National Bank but that document was not handed over to the petitioner. In this connection he has relied upon **State Bank of India and others v. D.C.Aggarwal and another** reported as AIR 1993 SC 1197. In that case the inquiry officer had found the respondent guilty only of charges I(1) and II(1) out of the 13 charges and had then, sent his report to the Chief Vigilance Commissioner. The Chief Vigilance Commissioner had disagreed with the inquiry officer and found that the respondent was guilty of charges I, II, III, IV, VIII, XI, XII and XIII. When the matter went to the Disciplinary Authority he issued a show cause notice to the respondent wherein the inquiry report was annexed but the report of the Chief Vigilance Commissioner was not annexed. It was in that context that the Hon'ble Supreme Court held as follows:-

> "4. Although correctness of the order passed by the High Court was assailed from various aspects, including the power of the High Court to interfere on quantum of punishment, in writ jurisdiction, but we propose to confine only to the question of effect of non-supply of CVC recommendations as if the order was invalid and void on this score only it is not necessary to decide any other issue. Law on natural justice is so well settled from series of decisions of this court that it leaves one bewildered, at times, that such bodies like State Bank of India, who are assisted by hierarchy of law officers, commit such basic and fundamental procedural errors that Courts are left with no option except to set aside such orders. Imposition of punishment to an employee, on material which is not only not supplied but not disclosed to him, has not been countenanced by this Court. Procedural fairness is as much essence of right and liberty as the substantive law itself."

In my opinion the facts of the present case are so distinguishable that that judgment would have no applicability. In the present case there was no difference of opinion between the inquiry officer and the Chief Vigilance Commissioner whereas in the case cited above the inquiry officer had exonerated the respondents therein from most of the charges while the Chief Vigilance Commissioner had taken a different view. It was in those circumstances that the issue of procedural fairness had cropped up and the Hon'ble Supreme Court had held that all the material which had appeared against the respondent had to be supplied to him. In the present case it was not disputed that the Chief Vigilance Officer endorsed the opinion of the inquiry officer. Consequently whatever material appeared against the present petitioner was in the inquiry report and the findings of the inquiry officer.

The second argument raised by learned counsel for the petitioner is that once the respondent-bank did not take recourse to the criminal proceedings for such a serious office it throws a doubt on the entire case. The third argument of learned counsel for the petitioner is that while imposing the punishment, the Disciplinary Authority also took into consideration the past record.

In my opinion these arguments will also not advance the case of the petitioner. The fact that the bank did not take recourse to criminal proceedings would not be determinative, as in any case whatever action had to be taken against the petitioner in the domestic inquiry could only have been taken if the facts against him were proved. As regards the third argument even if the Disciplinary Authority wrongly considered some material, yet the action of the respondent in stealing the cash from the branch which he was heading is so serious that even without taking consideration any other material it is safe to justify the punishment of dismissal.

On a pointed question having been put, learned counsel has not been able to dispute that the CCTV cameras did reveal what was mentioned in the allegation. He has, however, argued that the money actually belonged to the petitioner and he had put it in his socks only because he was posted in a crime infested area. I am afraid this is a pure question of fact and the fact finding authorities have found that the petitioner stole the money.

In the circumstances the writ petition is dismissed.

(AJAY TEWARI)
JUDGE

March 24, 2015
sunita