In the High Court of Punjab and Haryana at Chandigarh

Civil Writ Petition No. 1413 of 2016
Date of Decision: 22.1.2016.

Balkishan Sobti ....Petitioner

Versus

Punjab and Sind Bank and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

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SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing of show cause notice dated 18.1.2014 (Annexure P-1) and charge sheet/articles of charges dated 26.11.2015 (Annexure P-3).

Case of the petitioner, in brief, is that he had worked with the bank and had retired as Chief Manager on 31.3.2012. Petitioner was served with a show cause notice dated 18.1.2014 on account of irregularities and abetting fraud committed by Nachhatar Singh. Petitioner submitted his reply to the said notice dated 24.4.2014 (Annexure P-2). After about almost two years, charge sheet dated 26.11.2015 (Annexure P-3) was issued to the petitioner qua the same charges. Respondent-bank had filed a Civil Suit No. 13133 of 2013 for recovery of ₹ 34,78,572/- against Nachhatar Singh and the same was pending. A criminal case was also registered against Nachhatar Singh. An amount of

₹ 74,04,164/- out of ₹ 91,21,382/- had already been deposited by Nachhatar Singh. As per the Regulation 48(2) of the Punjab and Sind Bank (Employees') Pension Regulation, 1995 ('*Regulations*' for short), departmental proceedings could not be initiated against an employee qua an incident which took place more than four years before the issuance of charge sheet. The alleged fraud had taken place in the year 2008 whereas charge sheet had been issued in the year 2015. Hence, the proceedings sought to be initiated against the petitioner were liable to be quashed.

Learned counsel for the petitioner has submitted that the show cause notice Annexure P-1 and charge sheet Annexure P-3 were liable to be quashed as they had been issued in violation of Regulation 48 of the Regulations.

Regulation 48 of the Regulations as reproduced in para 12 of the petition reads as under:-

> *"48. Recovery of Pecuniary loss caused to the Bank (1) The competent authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service. Provided that the Board shall be consulted before any W.P.(C) 6382/2015 and connected matters Page 8 of 20 final orders are passed. Provided further that departmental proceedings, if instituted while the employee was in*

service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service. (2) No departmental proceedings, if not instituted while the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution; Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service. (3) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of employee; Provided that where a part of pension is withheld or withdrawn, the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these regulations."

In the present case, petitioner had retired as Chief Manager on 31.3.2012. Annexure P-1 is the show cause notice dated 18.1.2014 issued to the petitioner. A perusal of the same reveals that the same was issued in terms of written confession dated 10.4.2013 made by Nachhatar Singh Ex-EDP Manager to the effect that he had deposited ₹ 50,40,164/- out of the fraud amount during the tenure of the petitioner. It was alleged that the petitioner had not brought the matter of recovery and unearthing of the said fraud to the higher authorities and had, thus, abetted the fraud committed by Nachhatar Singh, Ex-EDP. A perusal of the show cause notice Annexure P-1 and statement of allegations Annexure P-3 reveal the entries/transactions ranged from 9.9.2008 to 25.3.2011. Hence, the argument raised by the learned counsel for the petitioner that no action could be taken against the petitioner in terms of Regulation 48 of the Regulations, is without any basis as the irregularities do not relate to the year 2008 alone but relate to the period from 9.9.2008 to 25.3.2011. Proceedings were initiated against the petitioner by the respondents by issuance of show cause notice to him dated 18.1.2014.

No ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

(SABINA)
JUDGE

January 22, 2016
Gurpreet