IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19192 of 2013
Date of Decision: 19.09.2016

Rampat Bhatia ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. N.P. Bhardwaj, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Ram Chander, Advocate,
for respondents No.2 and 3.

RAJIV NARAIN RAINA, J.

1. Having regard to the inculpatory statement made by the petitioner during the course of departmental inquiry, the petitioner candidly admitted lapse committed by him due to heavy workload. The petitioner was serving as a Clerk in the Corporation with dominion over the corpus of the subject-matter imputation of misconduct. He did not deposit a sum of money as was his duty in the account of the Corporation maintained by the Punjab National Bank. There is enough evidence on record which requires no detailed narration proving the guilt of the petitioner based on the findings recorded by the enquiry officer. However, the petitioning delinquent took the stand that he had deposited an amount of Rs.10,000/- in the account of the Corporation maintained in the Bank as on March 24, 1999 but there is no entry of deposit of the money in the cash book of the office maintained by the delinquent petitioner. There is, however, a voucher

scribed in the hand of the petitioner available on record of the respondent Corporation accuser. But when the delinquent was asked to get the deposit slip of Rs.10,000/- verified from the Bank he was unable to get it reconciled to the satisfaction of the Corporation though the latter made the best of efforts to get to the truth by approaching the branch of PNB through written communications including the one dated November 14, 2011, but the response has been from PNB that the record is not available with them w.e.f. 2001 and more specifically there is no record available of the relevant year 1999, since the old record has been as per provisions of the rules of the Bank destroyed as the Bank does not retain record of ledger sheets which are more than 10 years old. The petitioner was in-charge of cash in the District Office of the Corporation and the Cash Book and Pass Book of the office were in his custody as it was his duty to maintain the cash book. The period of posting of the petitioner on the seat where the defalcation occurred was from October 31, 1996 to January 17, 2001. The statement made by the petitioner during the course of inquiry on June 29, 2011 was as follows:-

> *"On 24.03.1999 I have given Rs.15,000/- for deposit in Account No. 4609 PNB, entry regarding the same was done in office Cash Book and Bank Slip was attached with voucher, due to non reconciliationi with Bank I could not know it, when I came to know about it from Distt. Manager then again I deposited the amount of Rs.15,000/- on 19.07.2002".*

2. It has been explained by the Corporation in the written statement that:-

> *"It is significant to mention here that however there is entry of deposit of Rs.15,000/- on 24.03.1999 and the Office Cash Book was countersigned by the then Distt. Manager Gulab Singh Jarodia on 24.03.1999 but same was not reconciled*

> *with Bank Record, consequently to cover up the same petitioner deposited a sum of Rs.15,000/- on 19.07.2002."*

3. It may be noted that the amount of Rs.15,000/- was deposited by the petitioner after a lapse of 3 years at the time of drawing the bank reconciliation statement and the amount was admittedly deposited by the petitioner in Corporation accounts. The petitioner was thus found guilty of temporary embezzlement of money even when he had a fiduciary relationship in the employer Corporation and was in charge of money.

4. The inquiry report was conveyed to the petitioner and his reply was received. The same was considered and not found satisfactory and as a consequence a minor penalty of stoppage of two increments without cumulative effect was inflicted on the petitioner and it was ordered that he will not be considered for further promotion. The petitioner was asked to restitute the amount of loss caused to the Corporation/Nigam suffered by it in the shape of interest had the money been deposited on time.

5. I have no reason to tinker with the impugned order dated May 29, 2012 and the order in appeal dated May 30, 2013 maintaining the minor penalty. The argument that the petitioner has been inflicted multiple punishments and by reason of that the impugned orders are liable to be set aside does not persuade me to interfere in the orders. Promotions are given for discharging duties and responsibilities of higher post in utmost good faith and honesty. The acts of omission and commission proven against the petitioner are sufficient to sustain the orders holding in different words that the petitioner is not fit for promotion. Promotion is not a fundamental right and a person can be deprived of the same just as an entry in ACR may declare person unfit for promotion if rules support such action. It has not

being argued before me that the promotion post deprived of is based on seniority alone. Banking business rests on absolute good faith and if faith is breached equity would have no place to lessen the burdens of punishment chosen and imposed or future rights to promotion curtailed. Promotion is not a matter of right.

6. For these reasons, I would dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

19.09.2016
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Whether speaking/reasoned	Yes
Whether reportable	No