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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16147 of 2016 (O/M)
Date of decision : 10.8.2016

Bhim Singh .... Petitioner (s)

Versus

Sarva Haryana Gramin Bank and others .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Praveen Gupta, Advocate, for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-.- -.-

KULDIP SINGH J. (ORAL)

The petitioner, who was Assistant Manager with the respondent-Bank, retired from Haryana Gramin Bank, has challenged the impugned order dated 4.3.2015 (Annexure-P-5), passed by the disciplinary authority, vide which the punishment of reduction by two stages in his existing pay scale of Rs. 14500-600/7-18700-700/2-20100-800/7-25700 i.e. lowering down his basic pay from Rs. 25700/- to Rs. 24100/- P.M. effective on the date of his superannuation i.e. 31.1.2015 with cumulative effect was imposed upon him. Also impugned in the present writ petition is the order dated 10.7.2015 (Annexue-P-7), passed by the appellate authority, whereby the appeal filed by the petitioner was dismissed with modification that the major penalty of reduction by two stages in his existing pay scale of Rs. 14500-600/7-18700-700/2-20100-800/7-25700 i.e. lowering down his basic pay from Rs. 25700/- to Rs. 24100/- P.M. effective on the date of his superannuation i.e. 31.1.2015 with cumulative effect imposed by the Disciplinary Authority, vide order dated 4.3.2015 to reduction by one stage

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in his existing pay scale of Rs. 14500-600/7-18700-700/2-20100-800/7-25700 i.e. lowering down his basic pay from Rs. 25700/- to Rs. 24900/- P.M. effective on the date of his superannuation i.e. 31.1.2015 with cumulative effect.

The learned counsel for the petitioner contends that the petitioner had retired from service on 31.1.2015 and that the punishment order (Annexure-P-5) was passed on 4.3.2015. The perusal of the retirement order dated 29.1.2015 (Annexure-P-4) shows that while retiring the petitioner from service, the disciplinary authority i.e. General Manager, invoked Regulation 45 of Haryana (now Sarva Haryana) Gramin Bank (Officers and Employees) Service Regulations, 2010 (in short 'the Regulations of 2010') read with Haryana (now Sarva Haryana) Gramin Bank Service (Amendment) Regulations, 2013 (in short 'the Regulations of 2013') to direct that the petitioner shall cease to be in service on the date of superannuation i.e. 31.1.2015 at the close of banking hours, but disciplinary proceedings will continue as if he was in service until the proceedings are concluded in the chargesheets, referred above and the final orders are passed in respect thereof. Regulation 45 (3) of Haryana (now Sarva Haryana) Gramin Bank (Officers and Employees) Service Regulations, 2010, is reproduced as under :-

> "(3) The officer or employees against whom disciplinary proceedings has been initiated shall cease to be in service on the date of superannuation but the disciplinary proceedings shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof."

It shows that if the disciplinary proceedings have been initiated

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and the employee superannuates, then the disciplinary proceedings shall continue as if he was in service until the proceedings are concluded and final order is passed. Therefore, the Regulations of the Bank specifically provide for continuation of the disciplinary proceedings even after superannuation and the relationship of employee and employer for the purpose of disciplinary proceedings shall continue.

The learned counsel for the petitioner has heavily relied upon the letter dated 28.9.1993 (Annexure-P-10), issued by the Ministry of Finance, Department of Economic Affairs, Banking Division, Government of India. The perusal of the covering letter shows that the reference has been made recommending alternate Regulation 20 for incorporation in the Officers' Service Regulations. The Government has finalized the said rules in consultation with the Indian Banks' Association, which could be taken into consideration, while invoking the provisions contained in this regulation. The covering letter itself shows that some recommendations were made to the banks to incorporate the said rules. However, it is not the case of the petitioner that the said regulations were included in the service regulations, applicable to the present petitioner by making amendment in the rules. The recommendations from its nature are recommendatory and cannot override the Regulation 45 of the Regulations of 2010. Therefore, in the present case, when the regulation provides for the same, the punishment order could be passed even after the retirement and for that purpose, the relationship of employee and employer shall continue. In this way, there is no illegality on the part of respondent-Bank in passing the said order.

So far as the inquiry is concerned, the matter has been examined by the disciplinary authority. This Court cannot substitute its

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findings with the findings recorded by the disciplinary authority, which have been affirmed by the appellate authority.

The learned counsel for the petitioner contends that as per the letter dated 28.9.1993 (Annexure-P-10), the disciplinary action was to be taken by the Chief Executive Officer of the respondent-Bank, who is Chairman-cum-Managing Director of the respondent-Bank, and not by the General Manager of the respondent-Bank.

However, as observed above, the letter dated 28.9.1993 (Annexure-P-10) is merely recommendatory and will not substitute the regulations unless these are amended.

In view of the above, there is no ground to interfere in the impugned orders dated 4.3.2015 and 10.7.2015 (Annexures-P-5 and P-7 respectively), passed by respondents. Hence, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

10.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No