

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

LPA No.529 of 2016 (O&M) IN
CWP No.9240 of 2014
Date of decision: 24.05.2016

Ramesh Kumar Katiwal

---Appellant

Versus

Sarva Haryana Gramin Bank and others

---Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Lalit Rishi, Advocate for
Mr. Vivek Aggarwal, Advocate
for the appellant

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 24.03.2015 of the learned Single Judge, whereby, the writ petition filed by the appellant challenging the order dated 30.03.2013 (Annexure P-5) dismissing him from service and the order of the Appellate Authority dated 07.12.2013 (Annexure P-7) upholding that order, has been dismissed.

Along with the appeal, the appellant has filed an application for condoning 273 days delay in re-filing the appeal.

The appellant who was Manager, Branch Office Dhani Mahu, of the Haryana Gramin Bank, was served with a show cause notice dated 11.2.2012 containing the allegations that, while on deputation to Branch

23.01.2012, he had committed the crime of larceny in the Branch and misappropriated/embezzled cash/public money to the tune of ₹20,000/- for personal gain. It was alleged that on 20.01.2012, the appellant and Balwant Singh, Office Assistant were both present in Branch Office, Dhani Mahu. The appellant deputed Balwant Singh to bring cash from Punjab National Bank, Branch Office Loharu. On his return, Balwant Singh found cash short by ₹13,000/-. Later on, Video Surveillance revealed that when Balwant Singh was away to PNB Branch Office, Loharu and the appellant was alone in the Branch having direct access to the cash, he stole ₹13,000/- from the cash receipt, entry of which had already been made in the cash book by Balwant Singh. In the CCTV footage, he was clearly shown putting the amount two three times in his socks. As disclosed by Balwant Singh, earlier also shortage of cash of ₹5,000/- on 14.12.2011 and ₹2,000/- on 10.01.2012 had occurred due to removal of cash by the appellant. When Balwant Singh threatened to expose the appellant, he refunded the whole amount of ₹20,000/- to Balwant Singh on 23.01.2012 by withdrawal of cash of ₹25,000/- from his COD account.

A regular enquiry was held wherein the Enquiry Officer found him guilty of the charges. The Disciplinary Authority imposed punishment of dismissal, which was upheld by the Appellate Authority.

Though number of arguments were raised before the learned Single Judge, the only argument that has been pressed in the present appeal is the factual one, that the charge against him could not have been held to be proved only on the basis of the recordings in the CCTV camera. It has

in the CCTV Camera showed him both as taking cash out of the cash box and stuffing it into his socks. Ld. Counsel argued that in fact the CCTV footage does not show him as stealing any cash from the cashier's drawer. He further argued that Balwant Singh Cashier/Office Attendant made the complaint on 24.01.2012 regarding the alleged shortage of cash on previous occasions i.e. ₹5,000/- on 14.12.2011, ₹2,000/- on 10.01.2012 and ₹13,000/- on 20.01.2012. Thus, there was a delay of about 42, 14, and 04 days in reporting the shortage.

The factual aspects have been duly considered by the Enquiry Officer as also by the Disciplinary Authority and the Appellate Authority, who agreed with the findings of the Enquiry Officer. It was on a cumulative view of the entire evidence produced before it that the Enquiry Officer held the charges to be proved. It has come on record that MW-4, Ramesh Kumar Sharma, Branch Manager in response to a question of the PO had deposed that the appellant went from the Manager seat to the Cashier seat and on coming back to his seat he picked up the money kept below the voucher and put the same in his socks. MW-3, Ved Kaur in her examination- in- chief on 5.10.2012 affirmed that the shortage of the cash dated 14.12.2011, 10.01.2012 and 20.01.2012 was in her knowledge and Balwant Singh had told about the shortage of the cash to the Branch Manager and the other staff members.

Ld. Single Judge has recorded that on a pointed question being put to the Counsel for the appellant, he was not able to dispute that the CCTV cameras actually revealed what was mentioned in the allegation against him. His only justification was that the money actually belonged to

him which he stuffed into his socks as he was posted in a crime infested area. As this was a pure question of fact and the fact finding authority had found that the appellant in fact stole the money, the Ld. Single Judge, in our view rightly dismissed the writ petition.

We find no infirmity in the order of the learned Single Judge.

Accordingly, this appeal as well as application for condonation of delay in re-filing thereof are dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 24, 2016
Atul