

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

RSA No. 471 of 2013 (O&M)
Date of decision : December 14, 2017

Narinder Kumar Handa,

..... Appellant

v.

Punjab National Bank

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. RD Bawa, Advocate
for the appellant.

Mr. NC Sahni, Advocate
for the respondent.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit filed by the appellant wherein he had challenged the punishment of termination imposed upon him.

Brief facts are that the appellant was serving in the bank when he was charge-sheeted on 21.6.1991 with the following charges :-

“ ARTICLE-I

He has been/is unauthorisedly absenting himself from duty and has not obeyed the lawful instructions of his senior officers.

ARTICLE-II

He did not maintain good conduct and discipline in the branch, did not show courtesy towards his senior officers/colleagues and acted in a manner unbecoming of a bank officer.

Thus, he contravened Regulation 3(2) and 13(i) of PNB Officer Employees(Conduct) Regulations, 1977 and committed misconduct.”

The appellant filed reply to the charge-sheet praying that the charges

be withdrawn and he be allowed to join the duty. He thereafter joined duty and sought voluntary retirement. However, the respondent instead of accepting his resignation proceeded with the departmental inquiry, which ultimately resulted into imposing of punishment of termination of service of the appellant. Both the Courts below having dismissed the suit, the appellant is before this Court by way of this appeal.

Counsel for the appellant has argued that the findings are perverse but this argument has been rightly rejected by the Courts below by holding that the Civil Court is not to sit in appeal and is only to satisfy itself that the procedure as established by the law has been followed. Faced with this, counsel for the appellant has argued that the Punishing Authority did not consider the length of service in the order of punishment. Counsel for the respondent has argue that even if this argument is accepted, the matter would have to be remanded back to the disciplinary authority in terms of the Constitution Bench judgment of the Supreme Court in ***Managing Director, ECIL, Hyderabad and others v. B. Karunakar and others***, reported as ***(1993) 4 Supreme Court Cases 727*** wherein it was held that as a consequence of setting aside the order of termination or removal or dismissal further proceedings are required to be undertaken from that stage.

It may be seen that the appellant had 22 years of service and charges against him are mainly about his compatibility with the other staff and there are no charges of any financial irregularities. In Union of India and another vs S.S.Ahluwalia, 2007(7) SCC 257, the Supreme Court held as follows :-

“.... The scope of judicial review in the matter of imposition of penalty, as a result of disciplinary proceedings, is very limited. The Court can interfere with the punishment only if it finds the same to be

shockingly disproportionate to the charges found to be proved. In such a case, the Court is to remit the matter to the disciplinary authority for reconsideration of the punishment. In an appropriate case, in order to avoid delay the court can itself impose lesser penalty.....”

In view of the facts brought out above, the punishment of his dismissal from service is so dis-proportionate as to shock the conscience of this Court. In the circumstances, I deem it appropriate to substitute the order of punishment of removal of service of the appellant to that of compulsory retirement. Let the respondent now work out the retiral dues of the appellant and pay him all the dues within a period of four months from the receipt of a certified copy of this judgment failing which, he would be entitled to claim the same with interest @ 8% per annum from the date/s the amount/s fell due till the date of payment.

Appeal stands disposed of in the above terms.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

December 14, 2017

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**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No