

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

465

**CWP-11374-1996 (O&M)
Date of decision:12.01.2018**

N.K.Bhatia

....Petitioner

Versus

Punjab National Bank and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. H.C.Arora, Advocate for the petitioner.

Mr. G.S.Bajwa, Advocate for the respondent-Bank.

P.B. BAJANTHRI, J. (ORAL)

Pursuant to the order dated 01.12.2017 respondent-Bank have issued cheque for payment of cost. For want of communication with the petitioner cheque was not presented. Therefore, order dated 01.12.2017 is modified to the extent of cost shall be remitted in Mediation and Conciliation Centre of this court within a period of 2 weeks from today. Cheque has been returned to learned counsel for the respondent-Bank by counsel for the petitioner.

In the instant writ petition, petitioner has challenged the Inquiring Officer's Report, penalty order, appellate and reviewing authorities orders (Anexures P3, P5, P9 and P13 respectively).

Petitioner while working as Assistant Manager, he was subjected to disciplinary proceedings by issuing charge-sheet on 11.12.1991 on

certain irregularities committed by him while working in Branch office Nagori Gate Hissar. The Inquiring Officer held that charges levelled against petitioner were proved. Consequently, copy of the inquiring officer's report has been furnished to the petitioner. After receipt of petitioner's explanation, disciplinary authority imposed penalty of reduction of his salary by 5 stages in the time scale in which he was placed at the relevant point of time. Feeling aggrieved by the order of the disciplinary authority he preferred appeal as well as review. Both the authorities have affirmed the order passed by the disciplinary authority. Hence the present petition.

Learned counsel for the petitioner submitted that he would give up challenge to the inquiring officer's report and restrict his arguments to the orders passed by the disciplinary, appellate and reviewing authorities. Learned counsel for the petitioner submitted that disciplinary authority's order is not a speaking one for the reasons that after receipt of inquiring officer's report petitioner had submitted his explanation on the inquiring officer's report. Same has not been considered by the disciplinary authority as is evident from the order. Thus very object of issuance of show cause notice along with inquiring officer's report and obtaining explanation and its consideration is defeated in not considering reply on the inquiring officer's report by the disciplinary authority. In view of the said lacuna in the order of the disciplinary authority, penalty order and consequential orders passed by the appellate as well as reviewing authorities are liable to be set aside.

Per contra, learned counsel for the respondent-Bank submitted

that inquiry has been held in accordance with law. No infirmity is forthcoming. It was submitted that once the inquiring authority has held that charges levelled against the petitioner was proved question of re-looking into the inquiring officer's report or question of reappreciating any material is impermissible. Thus, petitioner has not made out a case so as to interfere with the disciplinary authority as well as appellate and reviewing authorities orders.

Heard learned counsel for the parties.

Relevant extract of the order of disciplinary authority is reproduced hereunder:-

“ I have gone through the findings of the Enquiry Officer along with related records of the case and submissions made by Shri Bhatia on the enquiry report and find that Article of Charge No. I & II have been fully proved and Article of Charge No. III has been partly proved against him. I agree with the findings of the Enquiry Officer and hold Shri Bhatia responsible for the charges proved against him and decide to impose upon him the major penalty of 'Reduction of his salary of five stages in the time scale in which he is presently placed.' I order accordingly.”

Perusal of the above decision of the disciplinary authority it is crystal clear that very object of furnishing of Inquiring Officer's Report and seeking explanation and in not considering explanation of the employee by the disciplinary authority is defeated for the reasons that there is not even single issue has been considered by the disciplinary authority. Consequently, disciplinary, appellate as well as reviewing authorities'

orders are set aside. Matter is remanded to the disciplinary authority to pass a fresh order while considering petitioner's reply on the inquiring officer's report. He is also directed to consider each of the contentions raised by the petitioner and to pass an order in accordance with law. The disciplinary authority is hereby directed to verify at this stage whether petitioner is in service or not. If he is not in service question of imposing any penalty may not arise. This may also be examined with reference to relevant regulations before passing order and it should be reflected in the order to be passed.

With the above observation, CWP stands allowed in part.

12.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No