

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

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**CWP-12802-2009 (O&M)
Date of decision:11.01.2018**

Hari Ram Anthala

....Petitioner

Versus

UCO Bank and others

.... Respondents

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

Present: Mr. R.K.Malik, Sr. Advocate with
Mr. Tejpal Singh Dhull, Advocate for the petitioner.

Mr.Aseem Rai, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has challenged Regulation No.21 of UCO Bank Officers Employees (Conduct) Regulation, 1976 (for short “Regulation, 1976”) and further orders of disciplinary, appellate and reviewing authorities dated 05.09.2008, 26.12.2008 and 18.06.2009 (Annexures P7, P9 and P11).

2. Petitioner was appointed as Steno on 31.10.1981 and he has earned promotion to the post of Officer Scale-I on 25.01.2002 w.e.f. 13.12.2001. Petitioner was charge-sheeted on the allegations that he had filed number of suits against his colleagues and superiors. Filing of such suits is without compliance to Regulation 21 to the extent of obtaining

previous sanction of the Bank before recourse to any court. The Inquiring Officer held that charges levelled against petitioner were got proved. Consequently, disciplinary authority imposed the penalty of compulsory retirement on 05.09.2008. Feeling aggrieved by the order of compulsory retirement petitioner preferred appeal and review. In both proceedings petitioner suffered orders. Thus, present petition in challenging the validity of Regulation 21 of Regulation, 1976 and order of compulsory retirement, its affirmation by the appellate and reviewing authority.

3. Learned counsel for the petitioner submitted that Regulation 21 seeking sanction from the respondent-Bank for recourse to the court would be arbitrary and illegal. Further in not complying Regulation 21 do not attract any misconduct. It was further submitted that disciplinary authority failed to consider the petitioner's reply on the Inquiring Officer's report. Even though it was submitted within the time limit stipulated by the respondent-Bank. Further appellate as well as reviewing authorities have not appreciated the contentions of the petitioner and they have simply affirmed the order passed by the disciplinary authority.

4. Per contra, learned counsel for the respondents submitted that there is no infirmity in imposing the condition as per Regulation 21. It is only for a check and balance so as to employees/officers should not misuse the recourse of court in respect of colleague employees and superior officers. It was also submitted that he has received instructions that original file is not tracable for the purpose of examination of records relating to disciplinary proceedings.

5. Heard learned counsel for the parties.

6. Insofar as challenged to Regulation No.21 of Regulations, 1976 cannot be gone into at this stage. So also petitioner's counsel is giving up challenge to Regulation 21 at this stage. Therefore, what remains in the matter is whether order of disciplinary, appellate and reviewing authorities could be interfered or not. On short ground that the disciplinary authority has failed to consider petitioner's reply on inquiring officer's report which was submitted on 03.09.2008 and which is within the time limit stipulated by the respondent-Bank as is evident from the records that petitioner has submitted his reply on the inquiring officer's report on 03.09.2008 and it is within the time limit stipulated. Consequently, there is total non-application of mind by disciplinary authority in not considering the petitioner's reply on inquiring officer's report. Further appellate and reviewing authorities have not appreciated contentions raised by the petitioner. In view of these facts and circumstances, order of the disciplinary authority and consequential orders passed by the appellate and reviewing authorities (Annexures P7, P9 and P11) are set aside. Matter is remanded to disciplinary authority to pass a fresh order after due consideration of petitioner's plea on the inquiring officer's report which was submitted on 03.09.2008 and pass fresh order. Above exercise shall be completed by the disciplinary authority within a period of 3 months from today. Since disciplinary authority's order and consequential orders (Annexures P7, P9 and P11) are set aside on technical ground, therefore, petitioner be treated as if he is under suspension from 05.09.2008 till 30.04.2017 i.e. had he been in service he would have retired

on 30.04.2017 in view of the decision of the Supreme Court passed in the case titled as *Managing Director, Ecil veruss B.Karunakar* reported in 1994 SCC Supl.(2)391. Concerned respondent is hereby directed to calculate subsistence allowance during the period from 05.09.2008 to 30.04.2017 and disburse the same within a period of 3 months from today. Irrespective of final order in the disciplinary matter, respondents are also directed to pass suitable order regulating suspension order within a period of 6 months from today.

7. With the above observation, CWP stands disposed of.

11.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No