

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

1931

**CWP-17821-2011 (O&M)
Date of decision:25.01.2018**

Karnail Singh

....Petitioner

Versus

Punjab and Sind Bank and others

.... Respondents

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

Present: Mr. K.S.Dadwal, Advocate for the petitioner.

Mr. J.S.Sathi, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has prayed for the following relief:

“Appropriate Writ, order or direction directing the respondents to produce the records including ACRs from 1997 onwards concerning to the petitioner and also to give details of the other marks and also the score of the lowest placed official selected in each promotion process from 2004 onwards enabling this hon'ble Court to scan and scrutinize the case of the petitioner for not promoting the petitioner from MMGS-II (Middle

Management Grade Scale) to MMGS-III and thereafter to MMGS-IV and after perusing the same and also to issue a Writ in the nature of certiorari for quashing the order (Annexure P-7) whereby despite the findings favourable to the petitioner, a Token recovery of Rs.1,000/- has been ordered without any rhyme and reason as would be apparent from the facts and circumstances set out in the writ petition and further also to issue a writ in the nature of mandamus directing the respondents to consider and promote the petitioner from the post of MMGS II (Middle Management Grade Scale) to MMGS-III and thereafter to MMGS-IV keeping in view his entitlement from the date when his promotions were wrongfully withheld and also to pay all the consequential benefits alongwith interest @ 18% P.A.”

2. Petitioner was subjected to disciplinary proceedings by issuing charge-sheet on 22.01.2010 on certain charges which has attained finality on 29.07.2011 by imposing penalty of “token recovery of Rs.1000 from his salary for loss caused to the bank by negligence” in terms of Regulation 4 (d) of Punjab and Sind Bank Officers Employees' (Discipline and Appeal) Regulations, 1981 (for short 'Regulation, 1981'). Further he has sought for direction to consider his name for promotion to the post of MMGS-III and thereafter, MMGS-IV.

3. Learned counsel for the petitioner submitted that petitioner's name should have been considered for promotion to MMGS-III in the year 2004. For no reasons his name has been overlooked and he was promoted only after completion of disciplinary proceedings on 29.07.2011 i.e. he was

promoted on 17.07.2012. It was submitted that mere allegations relates back to of the year 2004 and charge-sheet was issued on 22.01.2010 and imposition of penalty on 29.07.2011. These events would not come in the way of considering petitioner's name for promotion to MMGS-III in the year 2004 the date on which juniors were promoted. It was further submitted that imposition of penalty on 29.07.2011 to the extent of token recovery of Rs.1000/- from his salary is not part and parcel of one of the minor penalty under Regulation No. 4 of Regulations, 1981.

4. Per contra, learned counsel for the respondents submitted that as on the date of juniors promotion petitioner was facing allegations. He has been promoted to MMGS-III as and when disciplinary proceedings were completed on 29.07.2011. It was submitted that as long as allegations were pending against petitioner he was not entitled for promotion. Thus his name has been overlooked. Therefore, there is no infirmity in overlooking the petitioner's claim for promotion. It was further submitted that disciplinary authority has taken very lenient view while imposing the penalty of token recovery of Rs. 1,000/- in terms of Regulation 4. Recovery of loss caused to the respondent-Bank has been determined as Rs.1000/-. Therefore, it is in accordance with the Regulation 4(d) of Regulation, 1981. It was further submitted that in the year 2004 to 2007 for the purpose of promotion to the post of MMGS-III and IV prescribed departmental examination was in vogue. Petitioner had not passed prescribed departmental promotional examination in the year 2004. Thus his name was not considered.

5. Heard learned counsel for the parties.

6. Crux of the matter in the present petition is whether imposition of penalty as “token recovery of Rs.1000/- from his salary for loss caused to the bank by negligence” in terms of Regulation 4(d) of Regulations, 1981 is in accordance with Regulation 4(d) or not?

7. Perusal of the records it is evident that there is no determination in the inquiry that petitioner has caused loss to the extent of Rs.1000/- while discharging the duties of the post held by him. In the absence of determination question of imposition of recovery of Rs.1000/- is not correct. That apart under Regulation 4(d) of Regulations, 1981 there is no prescription of imposition of penalty of token recovery of Rs.1000/- from an employee/officer. Therefore, penalty order dated 29.07.2011 is set aside.

8. Ignoring name of the petitioner for promotion in the year 2004 or 2007 it is to be noted that as on both the relevant dates or year petitioner was not charge-sheeted on any allegations. In other words, initiation of disciplinary proceedings have not yet commenced. It is commenced only on 22.01.2010 by issuing charge sheet and it was concluded on 29.07.2011. Therefore, in the month of June, 2004 or in the year 2007 for the purpose of promotion to the post of MMGS-III there was no hurdle and allegations relates to 2004 would not come in the way of extending benefits by promotion to the post of MMSG-III since as on the relevant dates charge-sheet was not filed and it was filed only on 22.01.2010. Thus, respondents have committed error in not considering the petitioner's name for promotion to the post of MMGS-III. That apart, now the imposition of penalty dated 29.07.2011 has been set aside. Consequently, he is entitled for promotion to

the post of MMSG-III and IV. If any of his junior was promoted to both the posts in that event concerned respondent is hereby directed to consider petitioner's name for promotion to the post of MMGS III and IV from the date of junior's promotion if petitioner is otherwise eligible. If junior has been promoted for the aforesaid post in that event petitioner's name be considered for promotion to both the posts retrospectively and extend all service benefits including monetary benefits (arrears of pay). Same shall be calculated and disbursed within a period of 4 months from the receipt of this order.

9. CWP stands allowed.

25.01.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No