

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2275-2014 (O&M)
Date of Decision:-19.02.2018.

Subhash Chander

.....Petitioner

Versus

The Punjab National Bank and others

.....Respondents

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

Present: Mr. Punit Malik, Advocate for the petitioner.

Mr. R.S. Bhatia, Advocate for the respondents-Bank.

P.B. BAJANTHRI, J. (Oral)

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

“a) For issuance of a writ in the nature of mandamus directing the respondent to release the salary of the suspension period of the petitioner i.e. 6.5.1993 to 8.3.1994 and 29.6.1998 to 15.9.1999 which was withheld by the bank for such a long period and the leave and other benefits of the period of suspension mentioned above and a writ in the nature of certiorari for quashing the impugned charge sheet dated 10.12.2013 (Annexure P-16) related to the charges leveled in the year 1998, in the interest of justice.”

Petitioner's grievance is two-fold. One is that he was subjected to disciplinary proceedings while he was in service which was concluded in imposing the penalty of censure on 7.8.1998 (Annexure P-9). Arising out of

charges, he was placed under suspension that he is entitled to difference of salary. In the order dated 7.8.1998, respondents have made it clear that petitioner is not entitled to arrears of salary during the suspension period. The same is not under challenge. Consequently, petitioner is not entitled to the benefit of first grievance of difference of salary with reference to order of suspension.

(2.) Petitioner's second grievance is challenge to charge-sheet dated 10.12.2013 (Annexure P-16). Quashing of charge sheet is concerned, petitioner was subjected to criminal proceedings on the very same allegations that he has abused his superiors. Petitioner was acquitted on 8.02.2008. Further State preferred appeal against his acquittal and suffered an order on 20.09.2011. When things stood thus, respondents have not considered the service benefits after acquittal of the petitioner. Petitioner is stated to have filed an application under the Right to Information Act, 2005 on 22.9.2012 relating to service benefits. At this juncture, respondents have opened their eyes to initiate disciplinary proceedings. Thus, there was a correspondence between the disciplinary authority and Vigilance Department. On 15.11.2013, a note was prepared that allegations on the petitioner were not attracted to vigilance category and it is a non-vigilance category. Hence, they proceeded to initiate charge-sheet dated 10.12.2013. Feeling aggrieved by the order of charge-sheet dated 10.12.2013. Hence, the present petition.

(3.) Learned counsel for the petitioner vehemently submitted that there is inordinate delay on the part of the respondents insofar as initiation of inquiry on the allegations date back to 27.6.1998 that too on the allegations of abusing his superiors. It was further submitted that there is a

judicial pronouncement on the very same allegations in which petitioner has been acquitted. Thereafter, in the appeal acquittal was affirmed. Therefore, at this belated stage holding of inquiry that too on abusing superiors is not attracted. Moreover petitioner has attained age of superannuation and retired from service.

(4.) *Per contra* learned counsel for the respondents while resisting the petitioner's claim submitted that respondents-Bank were awaiting for the decision in the criminal case so as to initiate disciplinary proceedings. As and when appeal was decided, there was a correspondence between the disciplinary authority and other officers so as to find out whether is it vigilance or non-vigilance category. They are of the opinion that it falls under non-vigilance category. Hence, rightly charge-sheet has been filed on 10.12.2013. Thus, there is no delay in taking action against the petitioner. It was also submitted that Court cannot interfere in respect of initiation of charge-sheet unless there is a *mala fide*.

(5.) Heard learned counsel for the parties.

(6.) Question for consideration in the present case is whether respondents-Bank can initiate disciplinary proceedings on the allegations of abusing superiors belatedly with reference to the allegations relates back to 27.6.1998 on 10.12.2013 or not? No doubt criminal proceedings were launched against the petitioner on the very same allegations in which petitioner was acquitted on 8.2.2008. Further acquittal was affirmed by the Appellate Court on 20.09.2011; it is to be noted that there is no bar or prohibition for holding parallel proceedings like departmental and criminal proceedings. The respondents-Bank would not have waited for decision in

proceedings result, petitioner was acquitted on 8.2.2008 and further acquittal was affirmed on 20.09.2011. The respondents should have initiated disciplinary proceedings as and when petitioner had been acquitted. There is inordinate delay on the part of the respondents in initiating disciplinary proceedings that too on the allegations relating to abusing superiors. It is not a case of embezzlement of respondent-Bank's money so as to condone the delay on the part of the respondents in initiating disciplinary proceedings. Supreme Court in the case of UCO Bank and others Vs. Rajendra Shankar Shukla decided on 15.02.2018 considered delay and held as under:-

“12. We do not find any reason to interfere with the judgment and order passed by the High Court. However, it is necessary for us to highlight a few facts which were brought to our notice during the course of submissions made by learned counsel. The first issue of concern is the enormous delay of about 7 years in issuing a charge sheet against Shukla. There is no explanation for this unexplained delay. It appears that some internal discussions were going on within the Bank but that it took the Bank 7 years to make up its mind is totally unreasonable and unacceptable. On this ground itself, the charge sheet against Shukla is liable to be set aside due to the inordinate and unexplained delay in its issuance.”

In view of these facts and circumstances, respondents have not made out a case in respect of delay in initiation of proceedings. Accordingly, charge-sheet dated 10.12.2013 Annexure P-16 is set aside. Respondents are hereby directed to settle all service benefits in accordance with law within a period of 6 months from today.

(7.) Writ petition stands allowed.

(8.) At this stage, learned counsel for the respondents insisted for clarifying that petitioner is not entitled to arrears of pay during the suspension period i.e. from 6.5.1993 to 8.3.1994. Since petitioner has not questioned validity of order dated 7.8.1998, therefore, question of granting any benefit of arrears of salary for the period from 6.5.1993 to 8.3.1994 do not arise.

(P.B. BAJANTHRI)
JUDGE

February 19, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.