

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22240-2016 (O&M)

Date of Decision:-26.04.2018.

Sanjeev Mehndiratta

.....Petitioner

Versus

State Bank of Patiala and others

.....Respondents

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

Present: Mr. Naresh Prabhakar, Advocate for the petitioner.

Mr. H.N. Mehtani, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant petition, petitioner has prayed for the following relief:-

*“ b) issue a writ in the nature of Certiorari or any other order suitable writ, order or direction quashing the order dated 2.5.2016 of respondent No.2 (**Annexure P-25**); order dated 13.8.2015 of respondent No.3 (**Annexure P-22**) and order dated 29.4.2015 of respondent No.4 (**Annexure P-18**) and for the grant of other reliefs as prayed hereinafter and it is further prayed that during the pendency of the present Civil Writ Petition the operation of **Annexures P-18, P-22 and P-25** may kindly be stayed, in the interest of justice.”*

2.) Petitioner while working as Assistant General Manager at

Secunderabad during the period from 3.12.2013 to 30.1.2015, he was charge-sheeted on 8.4.2015 in relation to alleged incident of physical assault on one Sh. Nitin Kumar Dass, Assistant Manager (Advances). Three charges were framed. Petitioner had submitted his reply to the charges on 22.4.2015 while admitting the charges. However, while doing so, he tried to apprise the disciplinary authority by highlighting his work and other related issues so also how the team work was done by the petitioner and others. Disciplinary authority proceeded to impose the penalty of reduction in Grade by 2 levels i.e. from AGM to MMGS-II under Regulation 67 (g) of the State Bank of Patiala (Officers') Service Regulations, 1979 (for short "the Regulations, 1979"). In effect his basic pay has been reduced from ₹ 40,400/- to ₹ 31,500/-. It was also ordered that he will earn his stagnation increment after a period of 3 years and suspension period has been treated as not spent on duty. Feeling aggrieved by the order of penalty, he preferred an appeal and it was rejected on 13.8.2015. Thereafter, he preferred review petition. Reviewing authority modified the penalty to the extent that downgrade in scale from Scale-V to such level of Scale-IV. Hence, the present petition in challenging the orders of the disciplinary, appellate and reviewing authorities.

3.) Learned counsel for the petitioner submitted that disciplinary authority can not impose penalty under Regulation 68(g) since under Regulation 68(g), penalty can be imposed only after holding due inquiry in terms of Regulation No.68 (2) of the Regulations, 1979. It was further contended that disciplinary authority was biased as he has taken extraneous material for the purpose of imposing the penalty as is evident from the order

the Bank report which is not part and parcel of charge-sheet. Such a report has been taken into consideration for the purpose of imposing the penalty without hearing the petitioner on the report. Report was not part and parcel of charge-sheet, therefore, there was no occasion for the petitioner to submit his explanation on the report. It was further contended that reviewing authority has modified the penalty imposed by the disciplinary authority which is disadvantage to the petitioner and such modification is without specifying period. In other words, it is more harsher than the penalty imposed by the disciplinary authority. Reviewing authority has not issued a show cause notice so as to modify the penalty, therefore, order of the disciplinary, appellate and reviewing authorities are liable to be set aside.

4.) *Per contra* learned counsel for the respondents vehemently contended that when the petitioner had admitted his guilt, charges levelled against him in his reply dated 22.4.2015 to the charge-sheet dated 8.4.2015, question of holding inquiry do not arise. Therefore, disciplinary authority proceeded to impose the penalty and there is no infirmity. Assuming that if the disciplinary authority has taken extraneous material like Bank Officers Report that could be ignored having regard to the fact that petitioner has admitted his guilt in his reply. It was also contended that Regulation 68(2) of the Regulations, 1979 could be invoked if an employee had not pleaded guilty and inquiry is attracted, whereas, in the present case, petitioner has admitted his guilt in the reply to the charge-memo. Therefore, question of holding inquiry and so also restricting for imposition of penalty under Regulation 68(g) of the Regulations, 1979 is not attracted. It was review petition filed by the petitioner and not *suo motu* so as to contend that modification of penalty by the reviewing authority is at the behest of the

respondent. Hence, no interference is called for.

5.) Heard the learned counsel for the parties.

6.) In support of the petitioner's prayer, petitioner has pointed out that disciplinary authority has taken extraneous material into consideration and he was biased. If the extraneous material read with the reply to the charge memo is taken into consideration, then obviously, the disciplinary authority would be imposing major penalty. Had he reflected, petitioner's reply to the charge memo insofar as admission is concerned, then disciplinary authority might have imposed minor penalty. Therefore, taking extraneous material by the disciplinary authority to the extent of Senior Officers' of the Bank report which is not part and parcel of charge memo. In other words, petitioner has not been heard in respect of the report of the Senior Officers of Bank which has been relied by the disciplinary authority. Extraneous material has been taken into consideration while imposing the penalty by the disciplinary authority. Reviewing authority has modified the penalty which is a disadvantage to the petitioner and so also it is harsher than the disciplinary authority's order and modified penalty is not specific to the extent of which period. Therefore, in all fairness reviewing authority should have issued a show cause notice asking the petitioner as to why penalty imposed by the disciplinary authority shall not be modified. Without giving opportunity of hearing to the petitioner, reviewing authority has modified the penalty, which is disadvantage to the petitioner. On these counts impugned orders of Disciplinary, Appellate and Reviewing authorities are set aside. Reserving liberty to the respondent-disciplinary authority to proceed to pass order pursuant to petitioner's admission to the charge dated 22.4.2015 afresh in accordance with law.

7.) With the above observations, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

April 26, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.