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

**CWP-547-2015 (O&M)**

**Date of Decision:30.04.2018**

Harpreet Singh ... Petitioner

Vs.

Syndicate Bank and others ... Respondents

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

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

Mr. Vipin Mahajan, Advocate for the respondent.

**P.B. BAJANTHRI J. (Oral)**

In the instant petition, petitioner has challenged the order dated 31.12.2013 (Annexure P-1) and order dated 23.7.2014 (Annexure P-2) by which disciplinary authority imposed the penalty of dismissal from service and appellate authority has rejected the petitioner's appeal.

2. Petitioner while working as Assistant Manager with the respondent-Bank Sahupura Branch, Amritsar had made some transaction with reference to the accounts holder of the concerned Branch and account holders are stated to be relative to the petitioner. Their money has been withdrawn and money had been remitted in the petitioner's account for which he has been charge-sheeted. Charges reads as under:

> *"You were working as Asst. Manager at Sahapura Branch since 7.5.2012 and until you were placed under suspension on 15.05.2012. Prior to that you worked as Asst. Manager at Amritsar Ranjit Avenue Branch during the period between 22.10.2010 and 28.04.2012 and while working as such, you absued your official position and unauthorisedly and prematurely closed FD for ₹ 4.00 lakh and issued 3 VCCs an credited interest earned on such prematurely closed deposit to*

*your SB a/c; you had against those three VCCs, arranged one ODD, account for the party and unauthorisedly arranged another two Odd accounts in party's name but utilised the proceeds for yourself; you had unauthorisedly arranged another ODD account and transferred proceeds to your SB a/c on different dates and utilised such amount towards payment of your credit card dues, payment towards your loan account transfer of funds through NEFT to you a/c and also for closure of two ODD accounts opened fraudulently by you. Further, when you were transferred to Sahapura branch, you attempted to arrange another fictitious LD in the name of Simran against the deposits of a third party fraudulently; you unauthorisedly used the passwords of various staff/officials of both the branches to put through these fraudulent transactions; you had opened and operated 5 different SB accounts in your name at three different branches of the Bank and also put through these unauthorizzed and fraudulent transactions including heavy cash withdrawals beyond your know source of income. In the process you committed various other irregularities and derived undue pecuniary benefit and tarnished fair image of the Bank in the eyes of public.*

*The details of the above and the irregularities committed by you are more fully described in the statement of imputations of Misconduct on your part appended here below.*

*By your above acts, you failed to take all possible steps at all times to ensure and protect the interest of the Bank and discharge your duties with utmost honesty, integrity, devotion and diligence and acted in a manner unbecoming of an officer employee and thereby contravened Reg. No.3 (1) read with Regulation 24 of Syndicate Bank Officer Employees' (Conduct) Regulations 1976."*

3. Statement of imputation is crystal clear relating to transaction from what date and how the money is transferred in the petitioner's account; further utilization of such amount by the petitioner as is evident from the

statement of imputation.

4. Inquiry officer held that the charges levelled against the petitioner have been proved. Consequently, disciplinary proceedings were completed and the inquiry officer submitted its report alongwith a show cause notice seeking petitioner's explanation. After receipt of the petitioner's explanation, competent authority proceeded to impose the penalty of dismissal from service on 31.12.2013. Petitioner has exhausted the remedy of appeal before the Appellate Authority wherein he has suffered an order dated 23.07.2014. Hence, the present petition.

5. Learned counsel for the petitioner submitted that each and every transaction which were stated to have been alleged in the article of charges read with the statement of imputation are all belongs to relatives of the petitioner and they were not in a position to move to the concerned branch where the petitioner was working. Thus, petitioner was permitted to proceed with the transaction and he has been authorized orally by the accounts holders/relatives. Therefore, there is no charge of misappropriation or misusing the customers accounts. All the accounts holders have supported the petitioner's versions. Such version has not been taken into consideration by the inquiry officer, disciplinary authority and appellate authority while imposing major penalty of dismissal.

6. Per contra, learned counsel for the respondents submitted that respondent-Bank is a financial institution. Customers have faith in the Bank. No doubt petitioner's alleged transaction were related to his relatives but at the same time bank cannot ignore the fact that there is a illegal transaction. In other words, there is no authorization by the concerned account holders as on the date of transaction by the petitioner and the fraud committed by

him. In the absence of authorization letter from the customer, petitioner cannot contend that there is oral authorization. The Inquiry officer has dealt with each and every transaction as to how the petitioner had manipulated with the deposited money by the customers. Therefore, petitioner has not made out a case so as to interfere with the impugned orders. Question of modification of the penalty of dismissal do not arise in view of the fact that petitioner being a Assistant Manager had responsibility in his duties in respect of Bank transaction when he is working with the financial institution.

7. Heard the learned counsel for the parties.

8. Perusal of the article of charges and statement of imputation, necessary material has been taken into consideration to demonstrate that petitioner was unnecessary involved in a money transaction with the customer, even though, if they are relatives, at the same time, for the purpose of running financial institution, authorization under the signatory of the accounts holder is required for the purpose of record. Petitioner cannot contend that oral authorization was entrusted by the customers. He being an officer before making such transaction like withdrawing the money of the customers and remitting in his account; further making payments for various use like credit card, loan account, ODD and FD etc., no doubt that customers who are relatives had given oral authorization for the purpose of withdrawal and remitting the amount in his account. In fact the customers irrespective of whether they are relatives, friends and known persons for the purpose of financial transaction in a nationalized bank/financial institution, it was mandatory requirement to furnish authorization to a particular person for the purpose of withdrawing the money. Such authorization is not forth-

coming and not even in one customer's case with reference to the date of transaction. After initiation of inquiry customers might have given necessary authorization which is an after thought. The same cannot rectify or cure the irregularities committed by the petitioner in respect of various transactions stated in the statement of imputation. In view of these facts and circumstances, petitioner has not made out a case. Supreme Court in the case of ***Union of India and others*** v. ***P. Gunasekaran***; AIR 2015 SC 545 held that under what circumstances writ court can entertain a writ in respect of disciplinary proceedings. Extracts of paras 12 and 13 reads as under:

> *"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authorityand was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its power under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
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> *(a) the enquiry is held by a competent authority;*
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> *(b) the enquiry is held according to the procedure prescribed in that behalf;*
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> *(c) there is violation of the principles of natural justice in conducting the proceedings;*
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> *(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
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> *(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
>
> *(f) the conclusion, on the very fact of it, is so wholly arbitrary and capricious that no reasonable person could ever have*

*arrived at such conclusion;*

*(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*

*(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced and finding;*

*(i) the finding of fact is based on no evidence.*

*13. Under Articles 226/227 of the Constitution of India, the High Court shall not:*

*(i) reappreciate the evidence;*

*(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*

*(iii) go into the adequacy of the evidence;*

*(iv) go into the reliability of the evidence;*

*(v) interfere, if there be some legal evidence on which findings can be based.*

*(vi) correct the error of fact however grave it may appear to be;*

*(vii) go into the proportionality of punishment unless it shocks its conscience."*

9. In view of the above principle laid down by the Supreme Court, petitioner has not urged any of the criteria so as to interfere with the impugned orders.

10. Accordingly, petition stands dismissed.

30.04.2018 **(P.B. Bajanthri)**
rajeev **Judge**

**Whether speaking/reasoned** **Yes/No**

**Whether reportable** **Yes/No**