

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

**LPA No.394 of 2014 (O&M) in
CWP No.19215 of 2013
Date of Decision: 4.4.2018**

Kulwant Singh

..... Appellant

versus

State of Haryana and others

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE B.S.WALIA**

Present: Mr. Mani Ram Verma, Advocate, for the appellant.

Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Pardeep Solath, Advocate for respondent Nos.3 to 5.

B.S.WALIA, J.

1. Intra-court appeal has been filed against the order of learned Writ Court dated 4.10.2013 dismissing the writ petition thereby upholding order dated 22.8.2012 (Annexure P-7) passed by the Revisional Authority, order dated 15.9.2011 (Annexure P-6) passed by the Appellate Authority and order dated 10.8.2010 (Annexure P-3) whereby punishment of withholding of two increments in the grade of ₹5000-150-7850/- was passed against the appellant without cumulative effect under Rule 27.3(ii) of the Haryana State Cooperative Bank Staff Service, Common Cadre, Rules 1975 (hereinafter referred to as '1975 Rules') in terms of the decision of Board of Directors. Learned Writ Court dismissed the writ petition on the ground that the scope of interference to determine the disputed question of facts was very limited in writ jurisdiction and re-appreciation of

evidence to determine validity of inquiry report was not warranted since no statutory lapse had been pointed out during the course of enquiry and even otherwise minor penalty had been imposed.

2. Learned counsel for the appellant contended that the evidence on record establishes that the order passed by the learned Writ Court is unsustainable.

3. We have considered the submissions of learned counsel for the appellant and are of the view that the Writ Court does not sit as Court of Appeal to re-appreciate the evidence as the scope for interference is limited to statutory lapse during the course of enquiry.

4. It is well settled law that the Writ Court cannot re-appreciate evidence on the basis of which the punishment has been awarded as an Appellate Court and can interfere only where there has been any violation of the procedure for conduct of enquiry leading to award of punishment. In this context, reference can be made to the decision of Hon'ble the Supreme Court in **A. Savariar versus Secretary, Tamil Nadu Public Service Commission and another 2013(1) Apex Court Judgments (SC) 680**. Relevant extract of the same is reproduced as hereunder:

“The scope of judicial review in matters involving challenge to the disciplinary action taken by the employer is very limited. The Courts are primarily concerned with the question whether the enquiry has been held by the competent authority in accordance with the prescribed procedure and whether the rules of natural justice have been followed. The Court can also consider whether there was some tangible evidence for proving the charge against the delinquent and such evidence reasonably supports the conclusions recorded by the competent

authority. If the Court comes to the conclusion that the enquiry was held in consonance with the prescribed procedure and the rules of natural justice and the conclusion recorded by the disciplinary authority is supported by some tangible evidence, then there is no scope for interference with the discretion exercised by the disciplinary authority to impose the particular punishment except when the same is found to be wholly disproportionate to the misconduct found proved or shocks the conscience of the Court.”

5. In the circumstances, re-appreciation of evidence to impugn the validity of the enquiry report is not permissible besides that only minor penalty was imposed on the appellant. No circumstance exists warranting interference with the order passed by the Writ Court upholding the order passed by the Appellate Authority as upheld by the Revisional Authority.

6. Accordingly, intra-court appeal is dismissed in limine.

(RAJESH BINDAL)
JUDGE

(B.S.WALIA)
JUDGE

April 04, 2018

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No