

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

CWP No. 4503 of 1999

Date of decision: 12.12.2019

R.K. Arora

.....Petitioner

V/s.

Punjab National Bank and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. H.C. Arora, Advocate,
for the petitioner.

Mr. G.S. Bajwa, Advocate with
Mr. R.K. Vashishtha, Advocate,
for the respondent-Bank.

Sanjay Kumar, J. (Oral)

The petitioner, a Senior Manager in the service of the Punjab National Bank, was subjected to disciplinary proceedings and visited with the major penalty of 'Demotion from MMG Scale-III to MMGS-II', *vide* Punishment Order dated 12.02.1998 (Annexure P-6). The same was confirmed in appeal by the Appellate Authority, *vide* Order dated 14.11.1998 (Annexure P-9),

Aggrieved thereby, the petitioner filed this case. He not only challenged the validity of the aforesaid orders but also the Enquiry Report dated 04.12.1995 (Annexure P-2), which formed the basis for the disciplinary action taken against him.

Mr. H.C. Arora, learned counsel for the petitioner, would point out that the procedure to be followed for imposition of a major penalty is

specified in detailed terms in the Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977. He would draw the attention of this Court to Regulation 6 (21) (i) (d), which states that upon conclusion of the enquiry, the Inquiring Authority shall prepare a report containing the findings on each article of charge and the reasons therefor. Learned counsel would point out that the Enquiry Report dated 04.12.1995 (Annexure P-2) falls foul of the aforestated Regulation, inasmuch as Inquiring Authority did not record any reasons whatsoever.

Perusal of Annexure P-2 Report demonstrates that the Inquiring Authority dealt with as many as 17 charges, with sub-charges included therein, that were levelled against the petitioner and recorded his finding against each such charge/sub-charge, by stating either 'Charge proved', 'Partially proved', 'Charge not proved' and 'No financial loss to bank'. Except for setting out the details of the charges/sub-charges and his findings, as set out *supra*, the Inquiring Authority did not even assess any of the evidence placed before him in respect of each article of charge, whereby he could have rendered findings. This was in further violation of the norms, inasmuch as Regulation 6 (21) (i) (c) required him to assess such evidence.

Mr. G.S. Bajwa, learned counsel for the respondent-bank, would however assert that as the petitioner failed to participate in the enquiry proceedings, the Inquiring Authority was perhaps justified in passing a cryptic Enquiry Report. He would further seek to justify the disciplinary action taken against the petitioner on the ground that the Disciplinary Authority thereafter passed a detailed order recording reasons

for the disciplinary action taken against the petitioner.

However, as per the applicable statutory norms, it was for the Inquiring Authority to undertake the exercise of assessing the evidence and recording reasons for each of his findings. The Enquiry Report completely fails to meet the required standard, in terms of the statutory norms, and therefore cannot be countenanced.

In that view of the matter, the disciplinary action taken against the petitioner on the strength thereof cannot also be sustained.

The writ petition is accordingly allowed setting aside the Punishment Order dated 12.02.1998 (Annexure P-6) and the Appellate Order dated 14.11.1998 (Annexure P-9). However, as the petitioner did not actually work as an officer in the higher scale owing to his wrongful demotion, he would not be entitled to arrears of pay for that period. He would however be entitled to notional fixation of his pay in the higher scale as his illegal demotion has been set aside and his retrial benefits shall be revised in terms thereof. The amount due and payable to the petitioner in the light of such revising of his retiral benefits, pursuant to such notional fixation of his pay, shall be released expeditiously and in any event, not later than three months from the date of receipt of a certified copy of this order.

No order as to costs.

(SANJAY KUMAR)
JUDGE

12.12.2019

rakesh

whether speaking/non speaking : *Yes/no*

whether reportable/non reportable : *Yes/no*