IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO. 10965 OF 2014
DATE OF DECISION : 26.08.2019

Prabh Dial Singh Saini

...Petitioner

versus

Punjab and Sind Bank and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. R. Kartikeya, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

1. Impugned herein, *inter-alia*, is an order dated 15.09.2008 (Annexure P-7), whereby the petitioner has been awarded punishment of reduction of pay to a lower stage by three steps in the same time scale for three years, without cumulative effect and not affecting the pension of the employee, and also directing the petitioner shall not be entitled to any pay and allowances for the suspension period, except the subsistence allowance already paid. The said punishment was upheld by the Appellate Authority vide order dated 11.12.2008 (Annexure P-9) which in turn was reaffirmed by the Reviewing Authority vide order dated 13.07.2011 (Annexure P-15) also assailed herein.

2. Adverting to the facts first, shorn of unnecessary

details, the petitioner while working as Branch Incharge of the respondent-bank at M.T.S.M College, Ludhiana was placed under suspension vide order dated 04.09.2006 in anticipation of issuance of a charge-sheet and departmental proceedings. The suspension order dated 04.09.2006 (Annexure P-1) stated that he would be entitled to payment of subsistence allowance as per relevant Regulations. Subsequently, a Show Cause Notice dated 15.09.2006 was issued and reply/representation dated 20.10.2006 (Annexure P-3/2) filed by the petitioner in response thereto did not find favour, leading to issuance of a charge-sheet dated 09.11.2006 (Annexure P-4) wherein following charges were framed against him :

> "*Sh. P. S. Saini, Senior Manager (U/s) while working as Incharge at BO, M.T.S.M College, Ludhiana and BO K.C.W. Ludhiana is charged to have committed misconduct in as much as he exceeded his delegated auithority misused his official position and powers concealed/misrepresented facts from/to the controlling authorities, did not comply the instructions of the Bank/higher authorities, sanctioned certain loan cases in violation of banking norms and Bank's guidelines so as to put the Bank to a pecuniary obligation and loss of its revenue and thereby failed to take all possible steps to ensure and protect the interest of the Bank and to discharge his duties with utmost integrity, honestly, devotion and diligence and committed acts unbecoming of a bank officer.*
>
> *Sh.P.S. Saini acting in contravention to Bank's rules/ guidelines engaged himself in the business and made*

other employees members of the concern in which he had business interests. Most of the staff members posted at BO, M.T.S.M College, Ludhiana during the tenure of Sh. P. S. Saini had joined the same concern for business purpose but Sh. P.S.Saini reported tohigher authorities that no staff member of the branch was involved in business activities. Further Sh.P.S.Saini allowed to employees of the branch who were members of the concern in which he had business interest deduction U/S 80-G of Income Tax Act at source from their salaried income against the Income Tax Rules.

Sh. P.S. Saini committed serious lapses while sanctioning loans against the Bank's norms e.g joint appraisal of the loan cases was not done, he did not visit the units at pre/post sanction stage, in most of the housing loans the monthly repayment instalments were not fixed keeping in view the income of the borrowers placed on Bank's record, certain ODP limits sanctioned by him were not justified as per turnover method of sanction of OPD limits."

3. An Enquiry Officer was appointed to conduct enquiry into the aforesaid charges as per the charge-sheet and the same culminated into an enquiry report dated 27.12.2007 (Annexure P-5). As per findings contained therein, the petitioner was indicted of charges under Rule 3(i)(3) read with Rule 24 of the Regulations. Accepted the findings of the Enquiry Officer, the disciplinary authority passed the punishment order dated 15.09.2008 which was upheld in appeal and reconfirmed by the Reviewing Authority. Hence, the writ petition.

4. I have heard rival contentions and perused the pleadings along with the relevant record appended thereto.

5. For the reasons stated hereinafter, the writ petition is devoid of merit and therefore, no interference in extra ordinary writ jurisdiction of this Court under Article 226 of the Constitution is called for.

6. Learned counsel for the petitioner has strenuously argued that the petitioner has had an unblemished service record of 30 years. The disciplinary authority did not take this aspect into consideration before awarding punishment to the petitioner. He further argued that the Appellate Authority also did not consider the mitigating factor while holding the punishment order. Learned counsel further stressed on the point that given the fact that there was no material loss on account of which the petitioner was held delinquent, a lenient view, therefore, ought to have been taken. He further contends that the petitioner voluntary retired on 09.04.2013 and at this stage, the matter requires to be given a descent burial by setting aside the punishment order. Particularly, when the disciplinary authority itself admitted in letter dated 24.02.2008 (Annexure P-16) that there was no loss caused to the bank. He further argues that the punishing authority did not apply its mind independently and has relied upon the dictates of CVO. Copy of said CVO Report was also not provided to the petitioner in violation of principles of natural justice.

7. I am not in agreement with the arguments advanced by learned counsel for the petitioner. A perusal of the Enquiry Report viz.a.viz Punishment Order clearly reflects that the disciplinary authority applied its mind independently. There is no dictate from CVO with regard to quantum of punishment. Reference to CVO was made after a disciplinary authority came to the conclusion with respect to the delinquency of the petitioner. Even otherwise, the punishment order does not refer to any such material and/or CVO recommendations which led to the awarding of impugned punishment to the petitioner.

8. In the premise, non-supply of CVO report to the petitioner is not of much consequence. What emerges from the findings of the Enquiry Officer is that the petitioner was guilty of misconduct. Argument that even if he is guilty of misconduct, but since no loss was caused, therefore, the petitioner is entitled to be let off, is not sustainable in law.

9. The lead argument of learned counsel for the petitioner is that the report of CVO, not supplied to the petitioner formed sole basis of holding him delinquent, leading to stoppage of three increments, is also devoid of any merit. Pointed stand of the respondent-Bank in its return is that neither the report of the CVO formed the basis of passing of the punishing order, nor, therefore, the same was required to be supplied to the petitioner.

10. It is not the case of petitioner that any hostile discrimination has been committed qua him inasmuch as any

similarly situated employee has been awarded lessor punishment than that of the petitioner. As far descent burial, I am in agreement with learned counsel for the petitioner that petitioner's case deserves one, and having since taken voluntary retirement, the shoe is on the other foot. Ball is in court of the petitioner to let the matter rest in view of his retirement and not expect the respondents to put it to rest.

11. In view of the aforesaid, the writ petition is devoid of any merit and the same stands dismissed. No order as to costs.

(ARUN MONGA)
JUDGE

AUGUST 26, 2019
shalini/sudhir

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