

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

CWP No.10020 of 1997
Date of decision: 02.03.2020

Ramesh Garg

.....Petitioner

V/s.

Punjab National Bank and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Brijesh Kumar, Advocate for
Mr. Pawan Kumar Mutneja,
for the petitioner.

Mr. Saurav Verma, Advocate,
for the respondents.

Sanjay Kumar, J. (Oral)

The petitioner, a Middle Management Grade Scale-II officer in the Punjab National Bank, was removed from service, *vide* order dated 29.09.1995 passed by the Disciplinary Authority-cum-Deputy General Manager of the Bank at Chandigarh. Aggrieved thereby, he preferred a statutory appeal before the General Manager of the Bank at New Delhi. By order dated 08.03.1996 (Annexure P-18), the Appellate Authority dismissed the appeal. His review before the Chairman and Managing Director of the Bank, the Reviewing Authority, met with the same fate when it was rejected, *vide* order dated 03.07.1996 (Annexure P-20).

The petitioner was removed from service on the ground of unauthorized absence. The charge-sheet dated 24.07.1991 (Annexure P-6)

issued to him in this regard spoke of his unauthorized absence during the years 1988 and 1989.

While so, the Appellate Authority took into account the alleged unauthorized absence of the petitioner during the year 1995 also, while holding against him. Similarly, the Reviewing Authority also adverted to the alleged unauthorized absence of the petitioner from duty in March, 1995, while rejecting his review petition. Admittedly, the alleged unauthorized absence of the petitioner during March, 1995, was never the subject matter of any disciplinary proceedings. More so, it was not a part of the disciplinary proceedings initiated by way of the charge-sheet dated 08.07.1991.

Therefore, the Appellate Authority as well as the Reviewing Authority clearly erred in taking into account the later alleged misconduct of the petitioner and deciding against him. It is not for this Court to assess as to what extent this alleged later misconduct would have played upon the minds of these authorities while taking a decision in the appeal and review respectively. In any event, reliance placed by these authorities on an aspect which was not part of the disciplinary proceedings cannot be countenanced.

The writ petition is accordingly allowed in part, to the extent of setting aside the order dated 08.03.1996 passed by the Appellate Authority and the order dated 03.07.1996 passed by the Reviewing Authority. The appeal filed by the petitioner shall stand restored on the file of the Appellate Authority, viz, the General Manager of the Bank at its Head Office at New Delhi. The Appellate Authority shall consider afresh the petitioner's appeal on its own merits and in accordance with law, without reference to later factual issues which were not part of the disciplinary proceedings. The Appellate

Authority shall dispose of the appeal by way of a reasoned order expeditiously and in any event, not later than two months from the date of receipt of a certified copy of this order. The petitioner shall be given a personal opportunity of hearing by the Appellate Authority before a decision is taken in the matter.

No order as to costs.

(SANJAY KUMAR)
JUDGE

02.03.2020

rakesh
whether speaking/non speaking : Yes/no
whether reportable/non reportable : Yes/no