IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-22510-2013 (O&M)
Date of Decision: 20.1.2020

Sudama Singh --Petitioner

Versus

Punjab Backward Classes Land Development and Finance Corporation & others --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. J.R. Syal, Advocate for respondents no.1 to 3.

Mr. Varun Dhawan, Advocate for
Mr. K.R. Dhawan, Advocate for respondent no.4.

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TEJINDER SINGH DHINDSA.J (Oral)

Petitioner while serving on the post of Clerk under the respondent-Corporation was imposed the penalty of deduction of 60% of his salary per month as also stoppage of one annual increment vide order dated 22.6.2011 (Annexure P-1) passed by the punishing authority. Vide order dated 27.4.2012 (Annexure P-3) the appellate authority has affirmed the penalty imposed.

Instant writ petition raises a challenge to the aforesaid two orders dated 22.6.2011 (Annexure P-1) and 27.4.2012 (Annexure P-3).

Brief facts of the case are that one person namely Gurcharan Singh availed of a loan facility from the respondent Corporation on 18.6.1996. The precise charge leveled against the petitioner and which has led to the passing of the order of penalty is that he while serving on the post of Clerk he had verified the quotation of Vishwakarma Mechanical Works, C Block,Ranjit Avenue,Amritsar and which had led to sanctioning of a loan, whereas such firm did not even exist. Recovery of Rs.3,47,644/- was involved. The Field Officer concerned had reported that the petitioner had deposited a sum of Rs.31,600/- on different dates in the years 2007 and 2008 towards part recovery of the loan in respect of the firm which did not exist and even though verified by the petitioner. Petitioner was charged on the ground that he usurped the loan amount sanctioned towards a non-existent borrower.

It had been alleged by the employer that ultimately a fraud of Rs.95,000/- had been committed with the respondent Corporation and such amount instead of being received by the so called borrower, had been utilized by the petitioner for his own personal benefits.

Counsel representing the petitioner would argue that there was no negligence on the part of the petitioner as he had only acted upon the report submitted by the Field Investigation Team. Further submitted that the petitioner has been wrongfully singled out in the entire loan transaction and as such, has been made a scapegoat.

Per contra, counsel representing the Corporation would justify the passing of the order of penalty and would submit that the impugned order had been passed after following due procedure and in consonance with the principles of natural justice and as such, there was no scope for any interference in the same.

Having heard counsel for the parties at length, I am of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed.

During the course of hearing, it has gone uncontroverted that regular departmental proceedings were initiated against the petitioner in terms of charge sheet dated 29.12.2008 and the specific Articles of Charge formulated were in the following terms:-

> *"1. You had verified the quotation of Viskarma Mechanical Works, C Block Ranjeet Avenue, Amritsar dated 15.2.96. As per the report of the Executive Officer, the said firm does not exist.*
>
> *2. In this case, recovery of Rs.3,47,644.00 of the Corporation is involved. As per the report of Field Officer, Moga dated 5.2.2008, you had deposited the amount of Rs.31,600 on 14.7.2007, 2.1.2008, 17.1.2008 and 5.2.2008 in this case. In this way, you have usurped the loan amount of the borrower, in which, you have yourself deposited the above said amount."*

Petitioner chose not to submit any reply to the charge sheet inspite of repeated reminders having been served upon him. Thereafter, Sh. Joginder Pal Singh Puri, IAS (Retd.) was appointed as Inquiry Officer. Inquiry Report dated 29.10.2009 was furnished by the Inquiry Officer holding the petitioner to be guilty of the charges leveled. Thereafter petitioner was served with a show cause notice along with copy of the Inquiry Report. Petitioner rather than furnishing a reply to the show cause notice raised a demand for supply of certain documents on 2.2.2010. The documents were duly furnished and thereafter repeated opportunities of personal hearing were furnished and yet petitioner did not come present. Finally, during the course of personal hearing petitioner furnished an assurance that he would facilitate the recoveries pertaining to the loan case of Sh. Gurcharan Singh/Vishwakarma Mechanical Works. It is towards culmination of the departmental proceedings that the order of punishment dated 22.6.2011 (Annexure P-1) has been passed.

Counsel representing the petitioner has not been able to point out any infirmity or material irregularity in the inquiry that had been conducted against the petitioner. Even in the instant petition there is no challenge to the inquiry proceedings and which led to the furnishing of an Inquiry Report holding the petitioner guilty and which was thereafter accepted by the punishing authority by issuance of the order of punishment dated 22.6.2011 (Annexure P-1).

It is by now well settled that the scope of judicial review in matters of disciplinary proceedings would be limited to the decision making process and not against the final decision that may have been taken by the competent authority. Concededly at each stage of the departmental inquiry, due opportunity had been granted to the petitioner i.e. specific Articles of Charge had been formulated and the charge sheet served upon him. Petitioner having chosen not to respond to the same, Inquiry Officer had been appointed. The Inquiry Report holding the petitioner guilty and a copy of the same was also supplied to the petitioner along with show cause notice contemplating the imposition of the proposed penalty. The impugned order of penalty has, as such, been passed after due compliance of the principles of natural justice. No interference, as such, would be warranted.

That apart, petitioner was holding a responsible post of Clerk and was dealing with matters pertaining to processing of loan applications. The respondent Corporation based upon a verification process being carried out at the hands of the petitioner had sanctioned the loan. These are matters which require a high degree of responsibility and trust. Against the backdrop of the allegation against the petitioner and which stand duly proved, there would be no scope of taking a lenient view. In the considered view of this Court, the quantum of penalty is commensurate to the charges leveled against the petitioner.

There is no merit in the instant petition and the same is, accordingly, dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

20.1.2020
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No