

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

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CWP No.14172 of 2021 (O&M)
DATE OF DECISION : 03rd DECEMBER, 2021

Rajender Singh Soni

.... Petitioner

Versus

Sarva Haryana Gramin Bank and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Shiv Kumar, Advocate,
for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

CM-17628-CWP-2021

This is an application for placing on record correct copy of Annexure P-8.

For the reasons mentioned in the application, the same is allowed. Copy of Annexure P-8 is taken on record.

Main Case

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of an appropriate writ particularly in the nature of certiorari for quashing of the charge sheet dated 23.02.2017 (Annexure P-2), order dated 11.06.2018 (Annexure P-6) passed by respondent No.3, vide which, the pay scale of the petitioner has been reduced by six stages and order dated 28.02.2019 (Annexure P-8) passed by respondent No.2, vide which the statutory appeal filed the petitioner has

been dismissed and order dated 20.11.2019 (Anneuxre P-10) passed in appeal before the Board of Director.

The facts in brief are that while in service, the petitioner was given a charge-sheet containing the details of the allegations, which had resulted in loss to the business of banking. The allegations against the petitioner were that the petitioner had been negligent in making recommendations qua sanction of the loan in favour of the one, Parhlad Singh and other persons. The allegations included recommending the loan against a land; despite the fact that the earlier loan against the said land had not been cleared, regarding not verifying the factual position regarding existence of the land which was being mortgaged; and also not getting the documents verified properly before recommending the loans. The Enquiry Officer was appointed in the matter. The respondents-Bank led the evidence. The petitioner also placed on record certain documents. After holding the enquiry, the Enquiry Officer exonerated the petitioner of all the charges leveled against him. However, the Punishing Authority found itself in disagreement with the report submitted by the Enquiry Officer. Since the Punishing Authority was not agreeing with the report of the Enquiry Officer, therefore, a disagreement note was sent to the petitioner; by way of show cause notice; requiring the petitioner to show cause as to why the Punishing Authority should not disagree with the enquiry report. The petitioner had filed the reply to the said show cause notice. After considering the reply, the Punishing Authority inflicted the punishment of reduction of pay of the petitioner by six stages. The petitioner filed an appeal against the punishment order. However, even the said appeal has been dismissed by the Appellate Authority. Hence, the present petition has

been preferred against the orders passed by the Punishment Authority and the Appellate Authority.

It is submitted by the counsel for the petitioner that the Enquiry Officer had exonerated the petitioner after appreciating the entire evidence led on file. The petitioner had filed reply to the disagreement note-show cause notice supplied by the Disciplinary Authority. However, the Punishing Authority has not properly considered the reply and has wrongly passed the order of punishment. Even, the Appellate Authority has passed a totally non-speaking order. No finding has been recorded by the Appellate Authority qua the arguments raised by the petitioner during the hearing of his appeal. The counsel for the petitioner has relied upon the judgment rendered by the Hon'ble Supreme Court in the case of ***Deputy General Manager (Appellate Authority) and others Vs. Ajai Kumar Srivastava, 2021 (2) SCC 612***, to contend that if the findings recorded by the Punishing Authority are wrong or *mala fide*, then the Constitutional Court is required to interfere in the matter; so as to protect the right of the aggrieved employee. The counsel for the petitioner has further submitted that the petitioner had rendered about 34 years of unblemished service and therefore, punishment imposed upon the petitioner is disproportionate to the alleged mis-conduct, and hence, this Court should set aside the punishment.

Having heard the counsel for the petitioner and having perused the case file, this Court does not find any substance in the argument raised by the counsel for the petitioner. It is not even disputed that on the departmental enquiry, the Enquiry Officer had exonerated the petitioner of the charges leveled against him. However, under the law, the Punishing Authority is not bound to accept the enquiry report, as such. But if the Punishing Authority does not find itself in agreement with the findings

recorded by the Enquiry Officer, then the Punishing Authority is under obligation to grant opportunity of hearing to the delinquent employee; before disagreeing with the Enquiry Officer and imposing any punishment. In the present case, a due disagreement note along with show cause notice was admittedly, sent to the petitioner. Although, the petitioner filed reply to the said show cause notice, however, the Punishing Authority has recorded that the reply filed by the petitioner was not relating to any reason specified by the Punishing Authority for disagreeing with the enquiry report. On the contrary, the petitioner had filed a general and vague kind of reply, which only tried to shift the blame towards the loan sanctioning authority or towards the Legal Advisor. In view of this, if the Punishing Authority has not found the reply filed by the petitioner to be satisfactory, then this Court cannot find any fault with the Punishing Authority, as such. Moreover, it has come on record that the revenue documents, which were submitted by the loanee to get the loan and which were sent to higher authorities by the petitioner with recommendation of the loan; were got verified from the revenue department; and the same have been found to be not existing in the revenue record. The said documents have been found to be bogus.

Although, the counsel for the petitioner has also argued that the order passed by the Appellate Authority is non-speaking, however, this Court does not find the said order to be non-speaking. The Appellate Authority has written a lengthy order, in which the findings recorded by the Punishing Authority and the submissions made by the petitioner during the hearing of appeal, has been duly recorded. Not only that, the reasons which have weighed with the Appellate Authority to arrive at a conclusion, have been mentioned qua every charge. Although, the Appellate Authority has not separately given much detailed findings regarding the arguments of the

appellant and the conclusion arrived at by it, however, the order passed by the Appellate Authority does show application of mind in arriving at the conclusion. Needless to say that it is not incumbent upon the Departmental Appellate Authority to write a separate and detailed reasoning by repeating the same thing as was said by Punishing Authority; if the Appellate Authority finds itself in agreement with the reasoning given by the Punishing Authority. But the order of the Appellate Authority must show an application of mind and should indicate the factors that have weighed with it while arriving at the conclusion. Moreover, in the present case the Appellate Authority has also recorded that the documents, which were placed on record by the petitioner along with the appeal were got verified from the Branch Manager, who further verified from the revenue authorities; and the Revenue Authorities have reported those documents to be non existing in the office. This leaves no doubt that the Appellate Authority has duly applied its mind. Hence, this Court does not find substance in the argument of the counsel for the petitioner that the order passed by the Appellate Authority is totally non-speaking.

The present petition is against the orders passed against the petitioner in the disciplinary proceedings. Both the authorities have recorded concurrent findings based upon the material, including the finding that the title documents on the basis of which the loan was sanctioned; have been reported to be bogus. This Court is not supposed to act as a Court of Appeal over the findings recorded by the Departmental Authority. This Court would restrict itself to see, if there is any violation of the prescribed procedure or if there is any violation of principles of natural justice or if the order is perverse. However, as mentioned above, this Court does not find any violation of procedural aspect. Even any violation of principles of natural

justice is not discernible in the present case. Although, the counsel for the petitioner has relied upon the judgment rendered by the Hon'ble Supreme Court in the case of **Ajai Kumar Srivastava** (supra), however, a perusal of the said judgment itself shows that the High Court is not to enter into review of the proceedings and the orders passed by the Disciplinary Authorities except in case of *mala fide* or in case of total perversity of the orders passed by the authorities. In the present case, there is not even an allegation of *mala fide* against anybody and no official has been impleaded by name in the writ petition. So far as perversity of findings recorded by the authorities belows; is concerned, this Court does not find the orders suffering from any perversity. Detailed material is very much present on record of departmental proceedings. Merely because two interpretations may be possible qua the same record, this Court would not interfere against the orders passed by the authorities; by introducing its own interpretation of the material.

Although, the counsel for the petitioner has submitted that the petitioner had rendered about 34 years of unblemished service and therefore, punishment imposed upon the petitioner is disproportionate to the alleged mis-conduct, and hence, this Court should interfere in the matter, however, this Court does not find any substance in this argument of the counsel for the petitioner as well. Firstly, the petitioner has retired from service with all his retiral benefits, as such. The order passed against the petitioner is, in the worst, would result in decrease in amount of some retiral benefits. However, mere reduction in entitlement of some amount of money cannot be regarded as a punishment disproportionate to the alleged misconduct, which itself relates to the loan advanced by the Bank being rendered as bad debts. Moreover, this Court is not required to go into the quantum of punishment; unless the punishment is so disproportionate as to

be shocking to the conscience of the Court. However, this Court does not find the punishment imposed upon the petitioner to be of such nature which would shock the conscience of the Court in favour of the petitioner. Accordingly, even this argument of the counsel for the petitioner does not carry any weight.

In view of the above, finding no merits in the present petition, the same is dismissed.

03rd DECEMBER, 2021
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>