

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

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**CWP No. 23430 of 2021
Date of decision : 18.11.2021**

Raminder Singh Arora

.....Petitioner

Vs.

Indian Bank (earstwhile Allahabad Bank) and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anandeshwar Gautam, Advocate, for the petitioners

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari for quashing/setting aside the charge sheet dated 1.6.2017 (Annexure P-1), major penalty imposed by Disciplinary authority vide order dated 31.10.2018 (Annexure P-2), and the order passed by Appellate Authority dated 18.9.2019 (Annexure P-4), as well as, order passed in review application dated 17.12.2019 (Annexure P-6). Further prayer of the petitioner is for issuance of directions to the respondents to reconsider the petitioner for promotion from the date on which his promotion fell due along with all consequential and notional benefits.

A bare perusal of the record shows; and this has been so argued by counsel for the petitioner, that the petitioner was charge sheeted by the Disciplinary Authority. The regular enquiry was conducted. Thereafter, the punishment of 'reduction in pay scale by two stages' was imposed upon the petitioner. The petitioner preferred appeal against the said order. However, the Appellate Authority has also dismissed the appeal. Hence, the present petition has been preferred.

It has been submitted by counsel for the petitioner that under the circular of the bank, the petitioner could not have been held responsible for the misconduct alleged against him. Rather, the sub-ordinate staff of the petitioner was to be held responsible. It is further submitted by the counsel that the person immediately superior to the petitioner was appointed as Enquiry Officer. Therefore, he was not expected to conduct the enquiry in a fair manner because of ordinary conduct of business between the two. The counsel has also submitted that the reply filed by the petitioner to the charge-sheet was not considered by the succeeding officer, who joined in place of earlier officer. Therefore, the petitioner has gone unheard. It is further submitted that the petitioner has been discriminated against because the sub-ordinate staff has been left with only warning, whereas, the petitioner has been punished with a major penalty. The punishment imposed upon the petitioner is too harsh, therefore, the same deserves to be reduced.

Having heard counsel for the petitioner and having perused the case filed, this Court does not find substance in the argument of counsel for the petitioner. Although counsel for the petitioner has submitted that the succeeding officer, acting as a Punishing Authority, had not applied his mind to the reply filed by the petitioner to the charge-sheet and, therefore, proceedings were vitiated, however, it is obvious from the record that the outgoing officer had already appreciated the reply filed by the petitioner and had carried out the proceedings up to the stage of appointment of enquiry officer. Therefore, the succeeding officer was not required to reopen the stage up to which the action was already taken by the outgoing officer. The succeeding officer was only

supposed to carry out the proceedings further from the stage upto which these had already reached. Otherwise also, reopening of the process by review by the successor in office is not permitted under the law.

Further argument of counsel for the petitioner is that the petitioner could not have been held responsible for the misconduct alleged against him, rather his sub-ordinate officials and the other officials of the Audit Branch would have been responsible for the same. However, this Court does not find any force even in this argument. Needless to say, that this aspect relates to appreciation of facts, vis-a-vis the business circulars of the respondents. The Court would not re-appreciate the findings recorded by the Punishing Authority and the Appellate Authority in that regard. In the matter of interference with the disciplinary proceedings, and the order consequent thereon, this Court has to restrict itself to look into the aspect of procedural irregularity; vis-a-vis; the prescribed procedure; and would not act as a Court of Appeal; over and above the Disciplinary Authority; so as to re-appreciate the facts.

Further, although counsel for the petitioner has also submitted that the immediate superior officer of the petitioner should have not been appointed as enquiry officer because of the inherent functional bias with him, however, even this aspect has been considered by the disciplinary Authority and it has been found that the enquiry officer was not biased. As mentioned above, except in case of procedural violation, which could not be established by the petitioner, this Court is not required to interfere qua the findings of the facts. So far as the procedure; required to be followed by the authorities for inflicting the punishment upon the petitioner, is concerned, the counsel for the petitioner

has not referred to any prescribed procedural step which is violated by the respondents. For the same reason, even on the quantum of sentence, this Court would leave the matter to the discretion of the authorities; who are the better judge to assess the quantum of punishment, vis-a-vis; the gravity of the misconduct established against the officer/petitioner.

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

(RAJBIR SEHRAWAT)
JUDGE

18.11.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No