

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

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CWP No.4764 of 2019 (O&M)
DATE OF DECISION : 2nd FEBRUARY, 2022

Paramjit Kaur

.... Petitioner

Versus

Punjab and Sind Bank, Government of India Undertaking, New Delhi, through its Managing Director-cum-Chief Executive Officer & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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IN VIRTUAL COURT

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Present : Mr. R. K. Arora, Advocate for the petitioner.

Mr. R. Kartikeya , Advocate for the respondents.

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RAJBIR SEHRAWAT, J. (Oral)

1. This is the petition filed by the petitioner under Articles 226 & 227 of the Constitution of India seeking issuance of writ in the nature of certiorari/mandamus, order or directions for quashing the impugned orders dated 28.01.2019 and 31.01.2019 (Annexures P-11 & 12) whereby declining the prayer of the petitioner to keep further proceedings, in the charge sheet dated 08.10.2018, in abeyance till the conclusion of trial in case FIR No.50 dated 24.03.2018 (Annexure P-2) registered under Sections 409 & 420 IPC against the petitioner by the Bank for the same allegations/charges, has appointed respondent No.4 as Inquiry Officer, as patently illegal, arbitrary and violative of law laid down by Hon'ble the

Supreme Court in case of '***Captain M. Paul Anthony Vs. Bharat Gold Mines, 1999(3) SCC***, 679; along with certain other prayers.

2. The brief fact giving rise to the present petition are that the petitioner is serving in the respondent-Bank on the post of Manager. At the relevant time the petitioner was posted at Cinema Road, Batala branch of respondent-Bank. For the duration of the posting of the petitioner, some fraud in the branch was detected by the Bank. It was found that the petitioner, as Manager, had siphoned off the money of the customers to the accounts of her own relatives without there being any knowledge or authorization from the concerned customers. The Bank came to know of the said modality adopted by the petitioner only when the complaints were received from the customers. Accordingly, the petitioner was charge sheeted. Besides this, FIR No.50 dated 24.03.2018 was also registered against the petitioner under Sections 409 & 420 IPC at Police Station City Batala, District Batala. The charge sheet was issued to the petitioner. The petitioner even filed reply to the same. Although, she also sought certain additional documents to support her case, however, not finding the reply to be satisfactory, the Inquiry Officer was appointed. The process has not proceeded further because the petitioner had filed earlier writ petition i.e. CWP No.29649 of 2018 with a prayer that since the FIR has been registered against her in the same matter, therefore, the departmental proceedings be kept in abeyance, keeping in view the mandate of the judgment of the Supreme Court rendered in ***Captain M. Paul Anthony (Supra)***. That writ petition was disposed of by the co-ordinate Bench of this court vide order dated 22.11.2018 by directing the respondents to consider the issue and to pass

a speaking order. It is pursuant to that direction the order impugned in the present petition, has been passed by the respondents, thereby declining the prayer of the petitioner to keep the departmental proceedings in abeyance.

3. The assertions made in the writ petition on merits have been denied by the respondents. This court refrains from making any observations qua the merits of the case and is restricting to the decision as to whether the proceedings should have been kept in abeyance by the respondents or not.

4. While arguing the case, the learned counsel for the petitioner submitted that since all the witnesses and the documents involved in the departmental inquiry, as well as, in the criminal case, are same, therefore, the proceedings of the departmental inquiry should be kept in abeyance; lest the defence of the petitioner should be prejudiced in the criminal case. It is further submitted that the charge is grave including complicated questions of law and fact. Hence, as per the mandate of the Hon'ble Supreme Court given in judgment in ***Captain M. Paul Anthony (Supra)*** the proceedings should have been stayed by the respondents-Bank. The other point, which has been argued by the counsel for the petitioner, is that the respondents are not permitting the petitioner to have assistance of person of her choice during the departmental proceedings. The choice of the petitioner has been restricted to the co-employees. However, no employee is ready to defend the petitioner in the departmental proceedings against her.

5. On the other hand, the counsel for the respondents has submitted that the allegations against the petitioners are straight and

simple, which are matter of record. There is no complexity involved in the facts or law involved in the matter. In the departmental proceedings the respondents are to lead in evidence the entries prepared by the petitioner herself; which form the part of the record of the Bank. Hence, the judgment of the Supreme Court rendered in ***Captain M. Paul Anthony (Supra)*** is not applicable in the present case. Qua the second prayer of the petitioner regarding providing assistance, the counsel for the respondents has submitted that as per the regulations of the Bank the petitioner can seek assistance of such a co-employee/officer who is not involved in holding of more than two inquiries at the time of seeking assistance by the petitioner. The respondents would provide a list of employees/officials who are not involved in conducting more than two inquiries. The petitioner would be at liberty to opt any one out of them for her assistance. The list to be so provided would not be restricted to the employees posted at Batala only. The petitioner would be provided the list of employees/officials posted even in the adjoining Districts. Hence, it is submitted that there is no merit in the petition and the same be dismissed.

6. Having considered the arguments of the counsels for the parties and having perused the case file, this court finds substance in the arguments of counsel for the respondents. The main charge against the petitioner is regarding siphoning off the funds of the customers of the Bank by the petitioner to her own relatives' accounts without any authority or knowledge of the concerned customers of the Bank. The entire material to be sought to be produced against the petitioner is documentary in nature, which was prepared by or under the supervision

of the petitioner herself; being Manager of the branch at the relevant time. Therefore, there is no complexity of the facts, as involved in the case as such. Even on the legal aspects, since the respondents are only to probablize the charges to an extent on the basis of the evidence, therefore, there does not appear to be any complexity of any legal proposition involved in the case. Hence, the petitioner can not claim benefit of the judgment of Hon'ble the Supreme Court rendered in ***Captain M. Paul Anthony (Supra)***. Otherwise also there is no general proposition of law that once the FIR is registered against a delinquent employee then the departmental proceedings cannot proceed further unless the criminal trial is decided. Rather, the departmental authorities, as disciplinary authorities, are fully entitled to issue charge sheet to an employee even after an accused employee is acquitted in the criminal proceedings. Needless to say that the standard of proof in the criminal trial is much higher than the standard of proof required for departmental proceedings. Hence, de horse the complexity of the fact or law, involved in the case, the respondents are not under any obligation to keep the departmental proceedings in abeyance just because FIR has been registered against the petitioner. At the cost of repetition it deserves to be highlighted that in the departmental proceedings the respondent-Bank is required to bring the charge within preponderance of probabilities by leading the relevant evidence. During that process the petitioner will be having full opportunity to defend herself, but in accordance with law.

7. Qua the second aspect involved in the case, it deserves to be noticed that the petitioner does not have any absolute right to seek external assistance. It is not the case of the petitioner that the presenting

officer appointed on behalf of the Bank is legally qualified persons. Therefore, if the respondents are providing assistance of co-employee, in accordance with their regulations, then no fault can be found with their action. Moreover, this argument of the counsel for the petitioner is rendered infructuous in view of the undertaking given by the counsel for the respondents; as mentioned hereinabove; that the petitioner would be provided list of the eligible employees/officers out of whom the petitioner would be free to chose any one to assist her in her defence.

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

9. All the pending applications, if any, stand disposed of accordingly.

2nd February, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No