IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1). **CM-3466-CWP-2021 in/and**
CWP No. 13316 of 2013 (O&M)
Date of Decision: July 19, 2022

ARINDER SINGH BEDI .... Petitioner(s)
Versus
PUNJAB & SIND BANK AND OTHERS ..... Respondent(s)

(2). **CM-3465-CWP-2021 in/and**
CWP No. 250 of 2014 (O&M)

ARINDER SINGH BEDI .... Petitioner(s)
Versus
PUNJAB & SIND BANK AND ANOTHER ..... Respondent(s)

(3). **CWP No. 26152 of 2014 (O&M)**

DEEP SHANKAR MATHUR .... Petitioner(s)
Versus
PUNJAB & SIND BANK AND ANOTHER ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Sethi, Advocate
for the applicant(s)-petitioner(s).
.
Mr. R. Kartikeya, Advocate
for the respondents.

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LISA GILL, J.

This order shall dispose of CWP No. 13316 of 2013, CWP-250-2014 and CWP-26152-2014, as a common issue arises for adjudication in all these writ petitions i.e.

> "Whether in view of 3rd Proviso to Regulation 48 of the Punjab and Sind Bank (Employees') Pension Regulations, 1995 (for short Pension

> Regulation, 1995), charge sheet could have been issued to the petitioner/s, after their superannuation/retirement in respect to a cause of action/event, which admittedly took place four years prior to issuance of such charge sheet."

CWP 13316-2013 has been filed by petitioner Arinder Singh Bedi for quashing show cause notice dated 07.08.2012, issued by the Zonal Manager, Jalandhar of the respondent-Bank for alleged lapses and irregularities committed by the petitioner while he was posted as Incharge, Bank Office, Small and Medium Enterprises, Jalandhar from December 2003 to July 2007 and quashing of charge sheet dated 04.01.2013 with the allegation that petitioner had sanctioned certain cash credit limits to certain entities and loans/limits/sanctions, which were disbursed without identifying and confirming sanction of mutation of properties in favour of the recorded owners. Petitioner is stated to have retired on 31.10.2009, therefore, the above said show cause notice and charge sheet issued in respect to an alleged infraction, which took place four years prior to his retirement, has been set to challenge.

CWP-250-2014 has also been filed by Arinder Singh Bedi challenging show cause notice dated 04.03.2013 issued by the General Manager, Human Resource Development, New Delhi, for failure of the petitioner to verify boundaries of lands kept as security and quashing charge sheet dated 05.12.2013 alleging infraction, irregularities and lapses on the part of the petitioner while recommending sanction of housing loan and

ODP limit to certain persons during the period 8.12.2003 to 08.10.2007 in an erroneous manner and in contravention to the applicable provisions.

CWP-26152-2014 has been filed by petitioner Deep Shankar Mathur challenging show cause notice dated 03.09.2014, issued by Zonal Manager, Jalandhar for lapse on the part of the petitioner in disbursement of house loan vide sanction dated 30.03.2009 besides quashing of charge sheet dated 20.11.2014 alleging irregularities on the part of the petitioner, which led to loss to the bank during the period 15.10.2008 to 30.07.2010. Said petitioner is stated to have retired from the post of Manager with the respondent-bank on 31.10.2012.

Learned counsel for the petitioner/s submits that on attaining the age of superannuation, all pensionary benefits had been duly released by the respondent-bank in terms of the Pension Regulations 1995 vide communication dated 11.11.2009. Show cause notice/s and charge sheet/s issued to the petitioners, it is submitted, are totally without jurisdiction, in complete contravention and violation of the applicable regulations and particularly Regulation 48 of the Pension Regulations 1995. Reliance is placed on judgments of the Delhi High Court in ***Harpreet Singh Makkar Vs. Punjab & Sind Bank,*** in ***WP(C)-6382-2015***, decided on 18.08.2015, ***Punjab & Sind Bank Vs. Nand Lal Phatnani,*** in ***LPA-673-2015***, decided on 09.10.2015 and ***Baljit Singh Handa Vs. Punjab & Sind Bank, WP(C)-2846-2017***, decided on 01.02.2021. It is submitted that controversy involved in the above said matters is identical, involving the same respondent-Bank i.e. the Punjab &

Sind Bank and the very same Regulations, therefore, these writ petitions be allowed.

Learned counsel for the respondents while referring to the written statement submits that the petitioners are trying to misinterpret the phrase 'event' as mentioned in Regulation 48. In fact, in the case of petitioner Arinder Singh Bedi, the fraud was detected during inspection of the branch on 16.06.2012, though it pertains to period of service of the petitioner when he was posted as Incharge, Bank Office, Small and Medium Enterprises, Jalandhar from December 2003 to July 2007. Petitioner had failed to verify boundaries of land kept as security with irregularities and lapses on the part of the petitioner while recommending sanction of housing loan and ODP limit to certain persons during the period 8.12.2003 to 08.10.2007. Petitioner, it is stated was found to have committed the said lapse, irregularities while working as Incharge of the said branch. Similar argument has been raised in respect to the other petitioner. Therefore, show cause notices and the charge sheets are stated to be correctly issued within four years from the date when irregularity came to light. Moreover, present writ petitions, it is submitted, are premature. Petitioners should associate with the proceedings and avail the remedies as are available under the applicable Regulations. However, decisions of the Delhi High Court as relied upon by learned counsel for the petitioners are not denied. It is, in fact, candidly conceded that the said decisions stand implemented by the respondent-Bank.

Heard learned counsel for the parties and have gone through the file with their able assistance.

There is no dispute that show cause notice/s, charge sheet/s have been issued to the petitioners in all the writ petitions after their retirement. Regulation 48 of the Pension Regulation 1995 reads as under:-

> 48. **Recovery of Pecuniary loss caused to the Bank**
> (1) The competent authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service. Provided that the Board shall be consulted before any final orders are passed. Provided further that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service.
> (2) No departmental proceedings, if not instituted while the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution; Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service.
> (3) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of employee; Provided that where a part of pension is

> withheld or withdrawn, the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these regulations".

It is to be noted at this stage that the Regulation as produced in the writ petitions and the Regulation attached as an Annexure is as it stood before the amendment carried out therein. Unamended Regulation 48 reads as under:-

> **48. Recovery of Pecuniary loss caused to the Bank**
>
> (1) The competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service:
>
> Provided that the Board shall be consulted before any final orders are passed:
>
> Provided further that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service:
>
> **Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution**. (Emphasis added)
>
> (2) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date retirement of the employee:
>
> Provided that where a part of pension is withheld or withdrawn, the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these regulations".

Learned counsel for the respondents does not dispute that it is the amended Regulation 48, which is applicable. In the given factual matrix, stand taken by the authorities that the period of four years has to be calculated from the day alleged fraud or irregularity came to light, is devoid of any merit. Regulation 48 (2) is clear wherein it is stated that no departmental proceedings, if not instituted while the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution. 'Event' cannot by any stretch of imagination be taken to be the date when the irregularity allegedly came to light, as is sought to be urged by learned counsel for the respondents.

Delhi High Court in ***Harpreet Singh Makkar's*** case (supra) while dealing with the same issue at hand, negated similar arguments raised on behalf of the respondent-Bank in this regard and respondent-Bank was held to be precluded from taking any action against the petitioners therein.

Argument regarding maintainability of the writ petitions challenging the charge sheet was also dealt with while holding that charge sheets issued are without jurisdiction and impermissible and being in violation of Regulation 48, the same could be challenged at the threshold in order to avoid rigours of a full fledged departmental proceeding, which otherwise is not maintainable.

Admittedly, said decision dated 18.08.2015 in ***Harpreet Singh Makkar's*** case was upheld by a Division Bench of the Delhi High Court in LPA-673-2015 and other connected cases on 09.10.2015. Similar writ petitions filed before the Delhi High Court were allowed on 01.02.2021 in ***Baljit Singh Handa's*** case (supra) and the argument that the term 'event' used in Regulation 48 would and can relate to a subsequent event, which in fact led to the discovery of the alleged infraction of the retired employee has been negated. It is further not denied by learned counsel for the respondents that the respondent-Bank has implemented the said decisions which have since attained finality. Learned counsel is unable to distinguish the present writ petitions in any manner.

Accordingly, all the three writ petitions are allowed. Impugned show cause notice dated 07.08.2012 and charge-sheet dated 04.01.2013 subject matter of CWP 13316-2013; show cause notice dated 04.03.2013 and charge sheet dated 05.12.2013 subject matter of CWP-250-2014 as well as show cause notice dated 03.09.2014 and charge sheet dated 20.11.2014 subject matter of CWP-26152-2014 are quashed.

Pending applications, if any, are disposed of accordingly.

(Lisa Gill)
Judge

July 19, 2022

Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No