

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

CWP-4384-2011 (O&M)
Date of Decision: 05.07.2022

B.R.Mehta

..... Petitioner

Versus

Union of India and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Umesh Narang, Advocate,
for the petitioner.

Mr. Prateek Mahajan, Advocate, and
Ms. Prerna Malhotra, Advocate,
for respondent No.2.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the charge-sheet dated 08.01.2008 (Annexure P-4), impugned order dated 03.07.2010 (Annexure P-11) vide which punishment of censure and recovery has been imposed upon the petitioner and also impugned order dated 11.02.2011 (Annexure P-13), vide which appeal of the petitioner has been rejected by the appellate authority.

The facts, in brief; as involved in the petition, are that the petitioner was working as an Area Manager of the respondent-Corporation. As such, in his capacity, he had sanctioned about 20 loans to different persons for purchase of flats in a private developer's project, named GSB Apartments. The persons, who had taken the loans, did not re-pay the loans.

Moreover, the audit team of the respondent-Corporation had pointed out the flaws in the procedure adopted by the petitioner for sanctioning the loans. Accordingly, the petitioner was issued the charge-sheet; alleging that he deviated from the prescribed procedure and the requirements for sanctioning the loans for the said project. The inquiry was conducted in the matter. The Enquiry Officer found the petitioner fully guilty of charges No.2 and 4 and partly responsible for other charges No.1, 3, 5 and 6. Accordingly, the punishment of censure and recovery of an amount of Rs.3,93,583/- has been imposed upon the petitioner. Challenging the said order of punishment, the petitioner had preferred statutory appeal before the Executive Committee of the respondent-Corporation. However, even the said appeal has been rejected by the appellate authority. Hence, the present petition has been filed.

Arguing the case, the learned counsel for the petitioner has submitted that the petitioner had sanctioned the loans only in compliance of the procedure and after taking the requisite steps prescribed for the same. There is no defect in the procedure or the format of sanction of the loan qua anyone of the persons; while sanctioning the loans by the petitioner. The default in repayment has occurred only because of failure of the project and not on account of non-recovery of the loan amount by the respondent-Corporation. Learned counsel has further submitted that for the same charge, another employee, namely Charanjit Singh, was also charge-sheeted. However, he has been left with comparatively lighter punishment of only censure. No punishment of recovery has been imposed upon him. Hence,

the discriminatory approach has been adopted by the respondent-Corporation. Learned counsel for the petitioner has further submitted that the allegations against the petitioner have been held to be proved only because, allegedly, there is no master file prepared for the sanction of the loans. However, the petitioner had duly prepared the said file, which might have been misplaced subsequently from the office. Learned counsel has also submitted that since there is no allegation of integrity levelled against the petitioner, therefore, at least the punishment of recovery could not have been imposed upon the petitioner simply because a business decision had gone wrong.

On the other hand, learned counsel for the respondent-Corporation has submitted that entire procedure prescribed for conducting the inquiry against the petitioner has been duly followed. There is no procedural lapse in the inquiry or in the punishment being inflicted upon the petitioner. The petitioner has even availed statutory remedy of appeal. Accordingly, it is submitted that once the statutory procedure has been duly followed and even the remedy of statutory appeal has been availed by the petitioner then this Court is not required to sit as a court of second appeal in the matter of disciplinary proceedings. Learned counsel has further submitted that the charges that the petitioner had not followed the procedure prescribed for sanction of the loan, have been duly proved against the petitioner. Neither valuation report or inspection report were taken in case of the sanction of the loan of the individual loanees nor any title investigation was done. Since, the petitioner had not followed even the

basic procedure prescribed for the sanction of the loan and for ensuring that the money of the respondent-Corporation is secured, therefore, the petitioner has only been left lightly, though, he was liable for the entire loss suffered by the respondent-Corporation which is to the extent of Rs.13,98,073.73p. Hence, only minimum punishment has been imposed upon the petitioner. So far as the aspect of the discrimination with the petitioner is concerned, the same is not sustainable because the said Charanjit Singh was only the Deputy Manager whereas, the petitioner was the Area Manager, who was responsible for sanction of the loans as such. Therefore, both cannot be placed in the same category. Accordingly, he prayed that the present petition be dismissed.

Having heard the learned counsel for the parties, this Court finds substance in the arguments raised by the learned counsel for the respondent-Corporation. It is not even in dispute that the respondent-Corporation has duly followed the procedure prescribed for conducting inquiry and inflicting punishment of recovery upon the petitioner. As per the settled law, the Court can interfere in the disciplinary matters only in case of violation of the statutory procedure in conducting of the inquiry, in case it is a case of 'no evidence' at all or in case there are allegations of malafide against the punishing authority or the inquiry officer. However, none of the above said factors are even asserted by the petitioner. Therefore, this Court is not required to interfere in the matter, which has been dealt with by the statutory authority in accordance with the prescribed procedure. Otherwise also, by no means it can be said that it is a case of no evidence.

The valuation report, the inspection report and the title investigation reports are not found on the record of the loan sanctioned by the petitioner. There is no evidence even to suggest that the documents were in some other file; which is being described as the 'master file' and that master file was ever prepared by the petitioner. Once there is evidence on the file against the petitioner; then sufficiency of the evidence is not to be seen by the High Court in writ jurisdiction. Nor is it appropriate for the High Court to interfere with the appreciation of the evidence that is on the enquiry file. Hence, this Court does not find any ground to interfere with the procedure conducted by the respondent-Corporation or the findings recorded against the petitioner.

Learned counsel for the petitioner has also raised the issue of discrimination qua another employee, namely Charanjit Singh. However, even on this count, this Court finds substance in the arguments raised by the learned counsel for the respondent-Corporation. Undisputedly, the petitioner held the final higher authority to sanction the loans. The said Charanjit Singh held only a subordinate authority. Since the two stood on different footing and that the petitioner was obviously entrusted with higher responsibility, therefore, the petitioner cannot be heard to claim parity with the subordinate in the matter of punishment. Needless to say that even Charanjit Singh has not been left by the respondent-Corporation unpunished. Although, punishment of recovery may not have been inflicted upon him, however, he has also been inflicted the punishment of censure; like the petitioner.

Another argument raised by the learned counsel for the petitioner is qua the quantum of the punishment with a prayer that the recovery part of the punishment be set aside. However, this Court does not find substance in the same. The quantum of sentence is better left to the punishing authority. The Court can interfere in the quantum of punishment only if the punishment is so disproportionate to the alleged misconduct as to shock the conscience of the Court. However, in the present case, this Court does not find the said punishment even so disproportionate to the alleged misconduct as to disturb the conscience of the Court. Rather, this Court finds that the punishment imposed upon the petitioner is just and appropriate punishment. .

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

All pending miscellaneous applications, if any, are also disposed of as such.

(RAJBIR SEHRAWAT)
JUDGE

05.07.2022
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No