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

**LPA No.934 of 2022
Date of Reserve: 09.11.2022
Date of Pronouncement: 20.12.22**

B.R. Mehta … Appellant

Versus

Union of India and another … Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Suman Jain, Advocate, and
Mr. Rishab Jain, Advocate,
for the appellant.

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

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<u>ARUN PALLI, J.</u>

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 05.07.2022, vide which the writ petition preferred by the appellant, assailing the charge-sheet dated 08.01.2008 (P-4), as also the order dated 03.07.2010 (P-11), whereby, a penalty of censure and recovery of Rs.3,93,583/- was imposed upon him, has since been dismissed.

The facts that are required to be noticed are limited.

The appellant was employed with the Life Insurance Corporation of India (for short, 'LIC'). He was, from 09.06.1999 to 30.04.2002, posted as Area Manager in Life Insurance Corporation Housing Finance Limited, a subsidiary of LIC, (for short, 'LIC-HFL'). During this period, he approved a housing project (**GSB Apartments**) of a private builder/developer. And sanctioned/approved 20 individual loans and disbursed the loan amount. For a dispute arose between the two promoters and partners of the group, the project was abandoned. Resultantly, the loanees defaulted in repaying the loan, causing financial loss to the LIC-HFL. Upon examining the matter, the authorities found that the appellant had committed en masse irregularities and had, thus, violated the specific instructions of LIC-HFL and the procedure laid down in the Provisional Manual. Accordingly, a charge-sheet dated 08.01.2008 was served upon the appellant for breach of Regulations 21 and 24 read with Regulation 39(1) of the LIC of India (Staff) Regulations, 1960, (for short, '1960 Regulations'). In essence, the charges against him were that in some of the loans that he had sanctioned, it was discovered that **'salary certificates'** of the loanees did not mention **'compulsory recoveries'**, which was in violation of LICHFL/RG.Ho(3A)/Circular No. 68, dated 21.05.1993. And, in certain other sanctioned loans, there was no individual Panel Valuer's Report and Staff Inspection Report. For the appellant denied the charges leveled against him, the competent authority ordered enquiry into the matter. Per the enquiry report dated 20.04.2009, submitted by the Enquiry Officer, the appellant was found guilty of charges No.2 and 4, whereas, charges Nos.1,3,5 and 6 were found to have been partially proved. The appellant was served with a copy of the enquiry report and was afforded an opportunity to submit his objections thereto. Upon considering the findings recorded by the Enquiry Officer, as also the reply submitted by the appellant, the competent authority issued him a show cause notice dated 21.04.2010, proposing to impose penalty of censure and recovery of Rs.3,93,583/-, in terms of the 1960 Regulations. The appellant submitted a reply dated 07.05.2010 to the said notice, whereupon, the disciplinary authority, having found him guilty, vide order dated 03.07.2010, confirmed the proposed punishment. Aggrieved by the said order, the appellant preferred an appeal under Regulation 46 of the 1960 Regulations, which too was dismissed by the appellate authority, vide order dated 11.02.2011. This is how, the appellant had approached this Court, vide a writ petition, referred to above.

Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: he submits that the appellant had strictly followed the procedure laid down by the LIC for advancing loans and there was no deviation or irregularity involved in the process. Further, he asserts that the charge against the appellant that while granting individual loans, he failed to obtain Panel Valuer's Report, Staff Inspection Report, Title Investigation Report was apparently misconceived, as all such reports were duly drawn/prepared and placed in the master file, which might have been misplaced by the office subsequently. It is urged that regular audits were carried out every year, but none of the audit reports even remotely referred to any such discrepancy. He also submits that even though one Charanjit Singh was also found guilty of the same charges, but, he was only awarded the punishment of censure. Whereas, recovery of Rs.3,93,583/- was caused from the appellant. Thus, the approach of the authorities against the appellant was apparently discriminatory.

We have heard learned counsel for the parties and perused the record.

The position of law is settled that ordinarily the Writ Court, while exercising its power of judicial review, would not interfere with the disciplinary proceedings, except when a statutory rule/regulation is violated; or principles of natural justice are not complied with; or the conclusion arrived at by the Disciplinary Authority is palpably perverse; or the punishment inflicted upon the delinquent is shockingly disproportionate to the gravity of charges. *Ex facie*, as indicated above, such is not the case in the matter at hand. No such grievance was/is made by the appellant either. Records show that upon analysis of the material on record, the authorities conclusively concluded that in some sanctioned loans, the **'salary certificate'** of the loanees did not mention **'compulsory recoveries**', which was in violation of Circular No.68 dated 21.05.1993. Likewise, in certain other cases, the loan was sanctioned and disbursed without obtaining **individual Panel Valuer's Report, Staff Inspection Report, Title Investigation Report from Panel Advocate and approval of borrower's title to the property,** which was a serious breach of the prescribed procedure. Resultantly, a loss of Rs.13,98,073.73/- was caused to the respondent-LIC. The case set out by the respondent-LIC has been that if the appellant had followed the procedure envisaged in the Provisional Manual and the guidelines reflected in the circulars, the evaluation and inspection of the properties would have revealed that those were still incomplete. Hence, the loan amount would have been released only to the extent the actual construction was carried out by the promoters, to avert/contain the loss.

The argument that the appellant had duly complied with the procedure for advancing loans and there were no irregularities involved, as all such reports were duly prepared and placed in the master file, lacks conviction and cannot be countenanced either. The specific stand set out by the authorities, which remained unrebutted for lack of any conclusive material to the contrary, has been that master file is prepared where **approved project finance status** is granted to a project. However, no such approval was accorded to the GSB project. Further, nothing was brought on record either to show, if any such master file was ever created or maintained. Not just that, even the individual loan files created to advance individual loans would not refer to any such master file.

Likewise, the plea that all the default cases arising during the course of the year were duly examined and audited, but no such discrepancy and/or deficiency in the documents was ever detected or pointed out by the Auditors, in the successive years, would also not advance the case of the appellant. The authorities, in paragraph 7 of its return, had clarified that Audit Team had observed irregularities during regular audits of area office for the year 2003-04 and the same were also pointed out in the report dated 20/21.02.2006, submitted by the Deputy General Manager (Audit), Housing Finance Limited. Even otherwise, the essence of the alleged misconduct or charges against the appellant was/is: whether he sanctioned and disbursed loans in apparent breach/violation of the specific instructions/circulars and the settled procedure laid down in the Provisional Manual. Thus, even if it is assumed that during subsequent audits, no such discrepancy was pointed out, that would not absolve the appellant of the charges.

Needless to assert that this Court would not sit in appeal against the decision of the Disciplinary Authority, affirmed in appeal. Or even judge sufficiency or insufficiency in the evidence/material, on the basis of which the authorities concluded that the charges leveled against the appellant were proved. Unless, as indicated earlier, the conclusions recorded are patently perverse or it was a case of no evidence. It would be apposite, at this stage, to even refer to the decision of the Supreme Court in ***Union of India and others Vs. Subrata Nath*** (Civil Appeal Nos.7939-7940 of 2022, decided on 23.11.2022), in which an earlier decision of the Supreme Court in ***State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya (2011) 4 SCC 584***, was referred to, wherein it was held:

> ***"17. In State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya (2011) 4 SCC 584 , a two Judge Bench of this Court held as below :***
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> > ***"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order***

is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India (1995) 6 SCC 749, Union of India v. G. Ganayutham, (1997) 7 SCC 463, Bank of India v. Degala Suryanarayana, (1999) 5 SCC 762, and High Court of Judicature at Bombay v. Shashikant S. Patil, (2000) 1 SCC 416)."

In so far as the argument that approach of the authorities was discriminatory, for another employee, namely, Charanjit Singh, who suffered similar charges, was let off by only imposing a penalty of censure and no recovery was ordered against him, the same is also untenable. As observed by the learned Single Judge, said Charanjit Singh happened to be the Deputy Manager and was subordinate to the appellant, who was the Area Manager, and was entrusted with the responsibility to ensure strict compliance and implementation of the Procedure. Thus, he could hardly draw any parity with Charanjit Singh, who was awarded suitable punishment commensurate to the charges that were proved against him.

Further, it was owing to the gross irregularities committed by the appellant and violation of relevant instructions and procedure laid down in the Provisional Manual, LIC suffered a loss of Rs.13,98,073.73/- of which, Rs.3,93,583/- were ascribed to the appellant. Thus, in the given circumstances, as observed by the learned Single Judge, the punishment imposed upon the appellant could not be termed as unduly harsh or disproportionate to the gravity of charges.

Not because it would have any decisive bearing on merits, but during the hearing and upon being asked, learned counsel for the appellant informed the Court that the appellant had since retired and even the recoveries had already been effected.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.12.22
AK Sharma

Whether speaking / reasoned: **YES**
Whether Reportable: **YES**/NO