

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

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**CWP No. 18278 of 2016
Date of decision : 23.3.2022**

Anil Kumar Ralli

.....Petitioner

Vs.

Punjab National Bank and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. R.S. Longia, Advocate, for the petitioner

Mr. Saurav Verma, Advocate, for respondent No. 1

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 for setting aside the impugned award dated 14.7.2015 (Annexure P-11), passed by the Central Labour Court-I, Chandigarh-respondent No.2 and the impugned order dated 1.3.1999 (Annexure P-2) of compulsory retirement of the petitioner. It is further prayed that directions be issued to respondent No.1 to reinstate the petitioner in service with continuity of service and with all other consequential benefits.

The facts of this case; stated briefly; are that the petitioner was serving as a Clerk with the respondent bank. While performing duties, he is alleged to have withdrawn some money, allegedly, by creating some fake entries in the ledger pertaining to his own account. For that alleged misconduct, the petitioner was proceeded departmentally by the respondent bank. After holding the enquiry, the petitioner was inflicted punishment of 'compulsory retirement' with all retiral benefits. The petitioner raised dispute,

which ultimately got referred to the Labour Court. However, the Labour Court has answered the reference against the petitioner. During the process, the Labour Court had framed a preliminary issue qua the validity of the enquiry. By order dated 27.10.2010, the Labour Court had held the enquiry and the procedure thereof followed by the respondent Bank to be valid. Thereafter, the Court had undertaken the proceedings qua aspect of appreciation of evidence and the quantum of punishment. Even on that aspect, the Labour Court had found that the quantum of punishment is not disproportionate to the charge which has duly been established against the petitioner. It is against that award, passed by the Labour court, that the present petition has been preferred.

Arguing the case, the counsel for the petitioner has submitted that the Labour Court has gone wrong in law in answering the reference against the petitioner. It is submitted by counsel for the petitioner that the conclusion arrived at by the Enquiry Officer was perverse, though procedure was followed properly. Still further, it is submitted that alleged charge against the petitioner was qua an amount of Rs.9,500/-, which was even permissible over-draft for the staff of the bank. Therefore, the punishment inflicted upon the petitioner is totally disproportionate to the allegations levelled against him. Hence, the impugned award and the order deserves to be set aside and the petitioner deserves to be granted the benefit of reinstatement with full back wages.

On the other hand, counsel for the respondent bank has submitted that the Labour Court had separately passed the order dated 27.10.2010 qua the validity of the enquiry. That order had not even been challenged by the petitioner. Not only this, even in the present petition, that order has not been challenged as such. Hence, the argument of counsel for the petitioner qua the

challenge to the validity of the enquiry report is totally non-sustainable. Qua the quantum of punishment also, it has been pointed out by the counsel that it is not the amount of embezzlement which is relevant, rather, it is the loss of confidence in the employee; because the bank is dealing with the cash of the customers comprising of general public. Once the petitioner is found indulging in embezzlement of money of the bank, he does not deserve to be retained in the service. Despite the misconduct of the petitioner having been proved, he has been retired with the retiral benefits permissible to him as per his service. Therefore, by no means the punishment inflicted upon the petitioner is disproportionate to the charge.

It is further submitted by counsel for the respondent bank that otherwise also, the relief of reinstatement cannot be granted now because the petitioner has already attained the maximum age prescribed under the Bank Regulations. The punishment should not be changed only for granting monetary benefits to the petitioner. Hence, this Court should not interfere with the award passed by the Labour Court.

Having heard counsel for the parties and having perused the record, this Court finds substance in the argument of counsel for respondent No.2. It is not even disputed by counsel for the petitioner that the issue of departmental enquiry was separately dealt with by the Labour Court and the finding was recorded against the petitioner. That order has never been challenged by the petitioner. Even in the present petition, there is no challenge to the said order; as such. Hence, the Labour Court has rightly decided the issue regarding the termination of services of the petitioner through the departmental enquiry. Even the argument qua over-draft facility is not

sustainable because there is nothing on record to show that the petitioner has taken the amount as over-draft. As per the record, the petitioner had taken those amounts on the basis of fabricated entries in the ledger.

Although the counsel for the petitioner has vehemently contended that the punishment imposed upon the petitioner is disproportionate to the charges established against him, however, even this argument of counsel for the petitioner is not worth acceptance. Rather, this Court finds substance in the argument of counsel for the respondent that the respondent Bank deals with the money of the general public and any fraudulent act by an employee of the bank is to be dealt with very seriously. Hence, counsel for the respondent bank is not wrong in stressing the point that the bank has lost confidence in the petitioner and that putting the petitioner back in service would be putting the public money at risk once again, besides being unnecessary burden upon the respondent bank.

Even otherwise; the quantum of punishment is best left to the Labour Court. The Labour Court has considered all the relevant aspects even on the quantum of punishment. Hence, this Court does not find any illegality in the order passed by the Labour Court even qua the quantum of punishment. This Court also of the considered opinion that the petitioner while posted in a responsible institution dealing with the public money, should not have indulged in the embezzlement of the money of the bank itself. Hence, the very nature of the charge against the petitioner, irrespective of the amount involved, takes away any equitable considerations in favour of the petitioners. Hence, this court does not find the punishment imposed upon the petitioner to be shockingly disproportionate to the charge proved against him. Hence, this

Court is of the view that it should not interfere even on the quantum of punishment. Moreover, even if this Court intended to interfere on that aspect, the fact that the petitioner has also attained the maximum age as per service rules of the bank, rules-out any possibility of granting any relief to the petitioner. The petitioner cannot be ordered to be reinstated into service only to benefit him by way of huge arrears of salary. That would be totally irrational in itself.

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

(RAJBIR SEHRAWAT)
JUDGE

23.3.2022

Ashwani

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