

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

CWP-22500-2016

Date of Decision:20.04.2022

Niranjan Singh Multani

... Petitioner

Vs.

General Manager, Punjab & Sind Bank and another

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Madan Mohan, Advocate
for the petitioner.

Mr. R.N. Lohan, Advocate
for the respondents.

RAJBIR SEHRAWAT, J. (Oral)

Through this petition, the petitioner seeks quashing of charge-sheet bearing Memo No.ZO-CHD/Staff/IRC/Niranjan-sheet dated 26.02.2014 issued by respondent No.3; quashing of the Inquiry Report dated 09.07.2014 supplied to him by respondent No.3 r/w No.ZOJAL/Staff/IRC/Niranjan report dated 29.07.2014 of respondent No.4 to the extent it holds charge No.2 partly proved; quashing of Punishment order No.ZO/Jalandhar/ORDNIRANJAN dated 19.07.2014 issued by respondent No.3; quashing order No.ho/hrd/dac/7274 dated 09.03.2015 of Appellate Authority-respondent No.2 rejecting the appeal of the petitioner as also quashing order No.HRD/DAC/2712 dated 21.09.2016 passed by respondent No.1 rejecting his review petition.

The brief facts of the case are that the petitioner was posted as Manager in the Zonal Office of the respondent-Bank. As part of his duty, he was to look after the affairs relating to the SME Branch, Jalandhar. One

loanee of the Bank, namely M/s Shanti Forging had defaulted in repayment of the loan. For recovery of the said amount, auction of the properties of the said customer was to be held on 23.9.2013. The petitioner was alleged to have instructed the Branch Manager of the said Branch not to go ahead with the said process. Accordingly, the Branch Manager had written a letter to the Advocate who was entrusted the job of conducting auction not to proceed further. The Advocate informed the petitioner in the Head Office that stopping the auction, at that stage, would be a suicidal step and therefore, Bank should not stop the said auction. However, the petitioner did not inform this aspect to the Zonal Manager. Accordingly, two charges were levelled against the petitioner. First charge was verbally instructing the Branch Manager not to go ahead with the auction and the second charge was for not intimating to the Zonal Manager the advice of the Advocate of the Bank that auction should not be stopped.

With the abovesaid allegations, the inquiry Officer was appointed. The respondent-Bank examined its witnesses to bring home the charge against the petitioner. The petitioner duly participated in the inquiry. After holding the inquiry, the inquiry Officer submitted a report in which the petitioner was exonerated of charge No.1. However, charge No.2 was held to be partially proved against the petitioner.

Agreeing with the report of the Inquiry Officer, the Punishing Authority inflicted upon the petitioner a punishment of stoppage of one increment with cumulative effect vide order dated 19.2.2014. One thing which is to be noticed here is that although the Inquiry Officer had submitted the finding relating to charge No.2 that it was partially proved, however, the Punishing Authority observed that since the only ingredient

qua charge No.2 was non-information to the Zonal Manager and the said ingredient was even admitted by the petitioner, therefore, charge No.2 against the petitioner was proved fully and not partially, as was held by the Inquiry Officer.

Feeling aggrieved against the said order, the petitioner had filed the statutory appeal. However, the said statutory appeal was also dismissed by the Appellate Authority vide order dated 09.03.2015. Proceeding still further, the petitioner had preferred even a review petition before the Higher Authority. However, even the review petition was considered by the said authority and the same was rejected; finding no ground to interfere. Hence, the present petition has been filed.

Arguing the case, learned counsel for the petitioner has submitted that none of the charge against the petitioner was proved. There is no evidence on file to substantiate the charge against the petitioner. Moreover, since the Disciplinary Authority had disagreed with the Inquiry Officer qua charge No.2, therefore, notice was required to be given to the petitioner before recording final disagreement with the Inquiry Officer. However, no such notice was given to the petitioner. Hence, the order passed by the Punishing Authority is illegal. Learned counsel for the petitioner has relied upon the judgment of the Supreme Court rendered in the case of **Punjab National Bank and others** v. **Kunj Behari Misra**; 1998 (3) SCT 833 (SC). To the same effect, learned counsel for the petitioner has also relied upon some other judgments rendered in the case of **Narbadeshwar Shukla** v. **Palamu Kshetriya Gramin Bank and others**; 2016 (3) SCT 319; **C.S.H.A. University and another** v. **B.D. Goyal**; (2010) 15 SCC 776 and **K. Damodaran** v. **The Registrar, The Tamil Nadu**

Administrative Tribunal & others; 2006 (4) SCT 704 (Madras). Learned counsel for the petitioner has further submitted that the petitioner stands retired on attaining the age of superannuation on 31.03.2017. Therefore, on account of the punishment, the pension payable to the petitioner has been unnecessarily reduced.

On the other hand, learned counsel for the respondent-Bank has submitted that the petitioner was charge-sheeted for a misconduct under the Statutory rules. Due procedure was followed by the Inquiry Officer. Disciplinary Authority considered the report of the Inquiry Officer and have passed the order of punishment after appreciating the entire evidence and material on record. Even the appeal and the review application filed by the petitioner were duly considered and the same were dismissed; finding no merit in favour of the petitioner. Accordingly, it is submitted that the petitioner has already exhausted all the remedies available to him. Therefore, this Court is not required to interfere in the disciplinary proceedings. Learned counsel has further submitted that conclusions qua the guilt of the petitioner has been arrived at only on the basis of material placed on record. Insofar as the disagreement by the disciplinary authority qua charge No.2 is concerned, it is submitted by the counsel that the said disagreement does not have any effect upon the petitioner because he was not exonerated of the said charge even by the Inquiry Officer. Therefore, the disagreement, if any, is only formal in nature. The same punishment could have been inflicted by the disciplinary authority even on the basis of charge No.2 having been proved partially. Learned counsel has further submitted that as per the statutory rules, there is no requirement of giving any notice for any disagreement with the Inquiry Officer. The Disciplinary Authority

has arrived at a conclusion on the basis of material which is already on record before the Inquiry Officer. No further material has been taken by the Punishing Authority.

Qua quantum of punishment, learned counsel for the respondent has submitted that only punishment of stoppage of one increment has been inflicted upon the petitioner. It is further submitted that even on the question of quantum of punishment, there is no scope for interference by this Court.

Having heard learned counsel for the parties, this Court finds substance in the argument raised by the learned counsel for the respondent-Bank. It is settled law that in case of disciplinary proceedings, High Court does not sit as a Court of appeal over and above the Statutory Authorities. The conclusion arrived at by the Authorities is not to be substituted by the High Court with its own opinion; only because a different conclusion is possible on the basis of material on record. The Court can interfere in disciplinary proceedings only on limited grounds where there is a violation of statutory procedure; where there are allegations of mala fide against the Punishing Authority or where there is no evidence available on the inquiry file. However, in the present case, there is no violation of any statutory procedure; there is no allegation of mala fide against any person. It is also not a case of no evidence against the petitioner because witnesses have been brought on record and even the petitioner has admitted certain facts constituting alleged misconduct. Besides, this Court does not find any perversity in the conclusion arrived at by the authority. Hence, this Court does not find any ground to interfere with the conclusions arrived at and the order passed by the Disciplinary Authorities.

Although, learned counsel for the petitioner has referred to the alleged disagreement by the Disciplinary Authority, vis a vis, conclusion arrived at by the Inquiry Officer and has relied upon the judgment of Supreme Court rendered in the case of Punjab National Bank (supra), however, even this argument is of no help to the petitioner. It is not a disagreement on the part of the disciplinary authority taking quite opposite stand as compared to the finding recorded by the Inquiry Officer. Even the Inquiry Officer had not exonerated the petitioner qua charge No.2. Therefore, while holding the petitioner guilty for the same charge, the Disciplinary Authority has not 'disagreed' with the inquiry officer. The observation made by the Disciplinary Authority qua reading the finding as guilty from partially to fully, are only formal in nature which is not based upon the new material entertained by the Disciplinary Authority. Rather, the observations of the Punishing Authority are based only on the fact that the only ingredient required to be proved for proving the charge No.2 was held to be proved even by the Inquiry Officer. Hence, the facts of the present case are totally distinguishable as compared to the judgments relied upon by the learned counsel for the petitioner.

Further, learned counsel for the petitioner has also stressed upon the fact that the petitioner stand retired; and because of this punishment his pension has been reduced, therefore, punishment deserves to be withdrawn or, at least, modified so as to not affect the pension of the petitioner. However, even on this averment, this court does not find any reason to interfere; as the quantum of punishment is best left to the Punishing Authority unless it is of such a degree which shocks the conscience of the Court. However, in the present case, punishment is only

stoppage of one increment with cumulative effect. Therefore, mere stoppage of one increment cannot be said to be a punishment disproportionate to such an extent as to shock the conscience of the Court.

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

20.04.2022
rajeev

(RAJBIR SEHRAWAT)
JUDGE

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