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

CWP-8616-2013
Date of Decision: 01.06.2022

Pardeep Khanna ...... Petitioner

Versus

State Bank of Patiala and others .... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anil Chawla, Advocate,
for the petitioner.

Mr. Anil Kumar Ahuja, Advocate,
for the respondents.

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RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari quashing the order dated 09.02.2012 (Annexure P-9) passed by respondent No.3, the order dated 25.07.2012 (Annexure P-10) passed by respondent No.2, whereby appeal filed by the petitioner has been dismissed and the order dated 17.12.2012 (Annexure P-11) passed by respondent No.1, whereby review filed by the petitioner has also been dismissed.

The facts, as pleaded in the petition, are that the petitioner was working as an Assistant Manager at the Harsha China Branch, Amritsar, of the State Bank of Patiala (earlier subsidiary of the State Bank of India and now merged with the State Bank of India). The other branch Katra Jaimal Singh was designated as Foreign Exchange Transaction Branch. The petitioner was sent on the deputation to Katra Jaimal Singh Branch, vide order dated 31.08.2009, for working for half day; in post lunch session. While working at the said branch, the petitioner is stated to have created a FOREX message on information received from Jhanjhoti Branch of the bank. The message was qua holding an amount of USD $ 212.76 million as client reserved fund; as security on behalf of one M/s Purple Estates, who was a customer of Jhanjhoti Branch. The said message was transmitted to the foreign bank, namely, J.P. Morgan Chase Bank, United State of America. The said bank was to remit an equivalent amount in the name of one H.M. Developers in India through a transaction on behalf of a trust situated in the United State of America; against which the abovesaid amount of USD $ 212.76 million was stated to be held as client reserved fund; as security. When the message was received by J.P. Morgan Chase Bank, United State of America, they doubted the authenticity of the transaction and sought a reconfirmation from the Foreign Exchange Branch of the respondent-Bank at Mumbai. When the issue was re-examined at the respondent Bank, it was found that no such message was, in fact, approved by the Foreign Exchange Branch of the respondent-Bank. However, in the meantime, the bank is stated to have received a post-dated cheque for withdrawal of Rs.500 crores; as well. However, the entire process was resolved and the respondent Bank was saved of a fraud of huge amount because of the vigilance shown by the J.P. Morgan Chase Bank, United State of America. When the issue came to the notice of the respondent-Bank, then an inquiry was started. Having gone through the preliminary facts about the alleged misconduct, a formal inquiry was started against the petitioner, as well as, against three other employees of the concerned branch of the bank, who were stated to have created, verified and authorized the said transaction of reserving funds. After inquiry, the petitioner was found guilty of three out of four charges levelled against him. As a result, the petitioner was inflicted a punishment of imposition of reduction of his basic pay by four stages in the time scale of his pay for four years without effecting his present Fixed Personal Pay and Professional Qualification Pay with a further direction that he will not earn increment of pay during the period of such reduction and it will have the effect of postponing the future increments of his pay (simply speaking: stoppage of four increments with cumulative effect), in terms of Regulation 67(f) of the State Bank of Patiala (Officers) Service Regulations, 1979. Aggrieved against the said order, the petitioner filed statutory appeal before the appellate authority, i.e. respondent No.2. The said appeal was dismissed. The punishment imposed upon the petitioner was upheld by the appellate authority. Thereafter, the petitioner filed a review petition. However, even the said review petition has also been dismissed by the competent authority. Hence, the present petition.

Arguing the case, the learned counsel for the petitioner has submitted that the case against the petitioner is without any basis. As per the record, the petitioner was neither deputed in the Branch for any duty in the Foreign Exchange Transactions nor did any duty roster in the Branch prescribed for the petitioner to handle the foreign exchange transaction at the branch. Therefore, the petitioner had no role in the said transaction; as such. Moreover, the transaction has been held to be a 'non-financial' transaction, involving no loss to the bank. Therefore, besides the impugned order being vitiated on account of there being no evidence, even the punishment imposed upon the petitioner is disproportionate to the alleged misconduct. To buttress his argument qua the excessive punishment, learned counsel for the petitioner has also pointed out that the co-employees of the petitioner, who were also charge-sheeted regarding the same transaction, have been left with comparatively lighter punishment of stoppage of one or two increments without cumulative effect. However, the petitioner has been inflicted with the heavier punishment of stoppage of four increments with cumulative effect.

On the other hand, learned counsel for the respondents has submitted that the petitioner has been found guilty in the departmental inquiry. The said inquiry was conducted by complying with all the statutory provisions. The High Court is not required to act as a court of appeal in the matter of disciplinary proceedings against the employees. There is sufficient evidence on record to warrant punishment for the petitioner. Only on the basis of adequate material, as is reflected in the inquiry report, the punishment has been imposed upon the petitioner. Since, the bank could have been put to loss of thousands of crores of rupees on account of the act of the petitioner, therefore, the petitioner has been left with comparatively lighter punishment; only for the reason that the actual loss, which could have happened to the bank, has been averted for some reason or the other. Hence, the punishment is rightly imposed upon the petitioner.

Having heard the learned counsel for the parties, this Court does not find any substance in the arguments raised by the learned counsel for the petitioner. A perusal of the report shows that there are adequate testimonies against the petitioner, including the testimony of the person who created and typed the message. The said witness has categorically deposed that the relevant para of the said message was dictated by the petitioner himself and the same was prepared under the guidance and supervision of the petitioner. To the same effect is the additional testimony of the other witnesses, who have been produced during the inquiry. Therefore, whatever be the extent of the probative value of the evidence, but one thing is sure that it is not a case of no evidence; at all. There exists evidence against the petitioner. Once the evidence is there on the inquiry file and the same has been appreciated by the competent authority, then this Court is not required to re-appreciate the evidence. Lest this Court should travel in the realm of the appellant authority, this Court is not supposed reappreciate the evidence on inquiry file only because a different conclusion may be remotely possible. Hence, the argument of the learned counsel for the petitioner that there is no evidence against the petitioner is found to be not worth acceptance.

Although, learned counsel for the petitioner has reiterated the fact that since the alleged message was a 'non-financial' message, therefore, the punishment imposed upon the petitioner is disproportionate to his alleged misconduct, however, even this assertion of the petitioner is found to be not worth acceptance. The extent of punishment to be imposed in disciplinary proceedings is better left to the punishing authority. The High Court is not to interfere with the punishment imposed by the punishing authority unless the punishment is so disproportionate to the alleged misconduct as to shock the conscience of the Court. In the present case, had the message been translated into the financial transaction, the bank could have been put to loss of thousand crores of rupees, however, the same was saved by the vigilance exhibit by a foreign bank. In view of this situation, this Court finds that the punishment imposed upon the petitioner is not so disproportionate as to shock the conscience of the Court. Rather, the punishment is found to be quite reasonable. Hence, this Court does not find any ground to interfere even on this count.

Lastly, the learned counsel for the petitioner has submitted that the other employees have been left with lesser punishment and a higher punishment has been imposed upon the petitioner. However, even this argument of the learned counsel for the petitioner is not sustainable. Needless to say, that the petitioner cannot claim any negative equality with any other employee. Merely because some other employees have been left with some lighter punishment in view of the allegations specific to those persons, that does not give any benefit to the petitioner qua the quantum of punishment. Once, an inquiry is held and the respective roles of the employees are determined by the punishing authority, then the different punishment can very well be imposed upon the different employees. There is nothing wrong in such a course of action, if adopted by the disciplinary authorities. In the present case also, since the initiation of the alleged message is attributed to the petitioner, therefore, this Court does not find anything wrong in imposing the comparatively higher punishment upon the petitioner, as compared to the other employees.

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

(RAJBIR SEHRAWAT)
JUDGE

01.06.2022
adhikari

Whether speaking/reasoned *Yes/No*
Whether Reportable *Yes/No*