

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

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CWP No.7101 of 2016 (O&M)
DATE OF DECISION: 22nd NOVEMBER, 2022

S.N. Swami

.... **Petitioner**

Versus

Union Bank of India and another

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Arun K.Sinha, Advocates
for the petitioner.

Mr. K.K. Gupta, Advocate,
for the respondents-Bank.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India for issuance of writ of Certiorari or any other appropriate writ, order or direction for quashing the impugned order dated 10.04.1996, bearing No.CO:IRD:OS: VIG:231/95, whereby the services of the petitioner was dismissed by the respondent-Management.

The brief facts, as mentioned in the present petition; are that the petitioner was working as Teller Officer in the Teller Department of the respondent-Bank. Alleging certain omission and commission, the petitioner was given a charge-sheet. In the said charge-sheet, an enquiry was held by the respondent-Bank. During the enquiry, the Enquiry Officer had held the petitioner to be guilty of the charges leveled against

him. Accordingly, the Punishing Authority passed the order of dismissal of the petitioner from service. The petitioner preferred an appeal against the said order. However, even the said appeal was dismissed by the Appellate Authority. After dismissal of the appeal, the petitioner had availed even the remedy of review petition. However, the submissions of the petitioner did not find favour even in the review. Accordingly, the same was also dismissed. Challenging the said order, the petitioner had also preferred a writ petition before the High Court of Delhi. However, the said writ petition was dismissed on the ground of lack of territorial jurisdiction. Accordingly, the present petition has been filed by the petitioner.

Arguing the case, learned counsel for the petitioner has submitted that there is no evidence against the petitioner. The petitioner was not granted the effective opportunity of hearing. Not only that, out of total seven witnesses cited by the respondent-Bank, only two witnesses were examined. Therefore, the respondents have failed to prove the charges against the petitioner during the enquiry. Moreover, before inflicting the punishment of dismissal from service, no show cause notice was issued to the petitioner. The counsel has further submitted that the then Branch Manager of the Bank was against the petitioner and he was acting with mala fide intentions. As a result of his mala fide intentions and actions, the entire charge-sheet and the punishments have been flawed. The petitioner was not even provided assistance of his co-employee during the enquiry. Accordingly, the impugned order stands vitiated and the same be set aside and the petitioner be ordered to be reinstated into service.

On the other hand, learned counsel for the respondents-Bank has submitted that due enquiry has been held in the charges against the petitioner. The entire procedure prescribed under the Bank regulations have duly been complied with. The petitioner was given the Article of charges, as well as, statement of allegations. During the enquiry, the petitioner was granted full opportunity to cross-examine the witnesses. The material against the petitioner was documentary in nature, therefore, only relevant witnesses were examined before the Enquiry Officer. The said witnesses have duly produced and proved the record of the bank to substantiate the charges against the petitioner. Hence, the Enquiry Officer had rightly found the petitioner to be guilty of the charges leveled against him. The copy of enquiry report was duly supplied to the petitioner and he had even filed his response to the said enquiry. After consideration of the submissions made by the petitioner in his response, the Punishing Authority inflicted the punishment of dismissal from service upon the petitioner. The petitioner had preferred the statutory appeal against the said order. Even the Appellate Authority has confirmed the order passed by the Disciplinary Authority. Hence, there is no infraction of any rules in conduct of the enquiry. The counsel has further submitted that since the punishment has been inflicted upon the petitioner as a disciplinary measure, therefore, the High Court is not expected to sit as a Court of Appeal; over and above; the orders passed by the Departmental Authorities. Even in the matter of punishment, there is no ground for interference. The punishment imposed upon the petitioner is quite commensurate with the seriousness of allegations leveled against the petitioner. Moreover, the respondents is a financial and banking

institution, which cannot function except with due compliance of the rules and maintenance of absolute levels of integrity. The petitioner failed in both of them, therefore, there is no scope for interference by this Court in the present petition. The counsel has relied upon the judgments rendered by Hon'ble the Supreme Court in the cases of ***State Bank of India and others Versus Ramesh Dinkar Punde, 2006 (7) SCC 212, A. Savariar Versus Secretary, Tamil Nadu Public Service Commission and another, 2013 AIR (SCW) 1358, R.S. Saini Versus State of Punjab, 1999 (8) SCC 90 and Govt. of A.P. and others Versus Mohd. Narsullah Khan, 2006(2) SCC 373***, to support his arguments.

After hearing learned counsel for the parties, this Court finds substance in the arguments raised by the counsel for the respondents. It is not even in dispute that the petitioner has been served a charge-sheet and that he was permitted to participate in the process of enquiry. It is also not even in dispute that the witnesses were duly examined during the enquiry. The petitioner was even granted opportunity to cross-examine the witnesses, which have been examined by the respondents-Bank. The said opportunity was availed by the petitioner, as well. Since, the respondents have led in evidence the documentary record, therefore, it cannot be said that the present case is a case of 'no evidence'. Hence, this Court finds that the enquiry has been conducted as per the regulations of the Bank and only thereon the orders have been passed by the competent authority.

Although the counsel for the petitioner has submitted that the petitioner was not provided the documents and that no show cause notice was given to the petitioner before imposition of the punishment,

however, even these facts are not supported by the material on record. The petitioner was never denied any opportunity to inspect the record, as required under the regulations, in case; he was not to be provided the copies of the record. So far as the issuance of notice before imposition of punishment is concerned, the concerned regulations of the Bank do not cast duty upon the authority to issue any show cause notice before inflicting punishment, however, the impugned order itself shows that the petitioner was granted opportunity of making representation before imposition of the punishment upon him. The punishment order expressly states that it was being passed after considering the submissions made by the petitioner against the enquiry report. Not only that, the conclusion arrived at by the Disciplinary Authority and the validity of the enquiry proceedings have been upheld even in appeal and in the review filed by the petitioner.

So far as the allegations of the petitioner against the then Branch Manager of the Bank are concerned, there is nothing on record to substantiate this assertion made by the petitioner. Moreover, the petitioner has not even impleaded the said person as a party to the present petition. In absence of the concerned person; the petitioner cannot be heard to raise the allegations of mala fide against the then Branch Manager, at this stage.

In view of the above, this Court does not find anything substantial to interfere in the matter. Moreover, this Court finds reliance of the counsel for the respondents on the judgments rendered by Hon'ble the Supreme Court in the cases of *State Bank of India and others, A. Savariar, R.S. Saini and Govt. of A.P. and others (supra)*, to be well

placed. This Court is not to sit in appeal; over and above the appreciation of evidence and the conclusion arrived at; and the orders passed by the Departmental Authorities. Needless to say that the scope of interference at the level of the High Court is very limited and the same can be resorted to in the cases, where there is absolutely no evidence against the petitioner, there is any infraction of the statutory procedure prescribed by the rules, there is violation of any principles of natural justice or the enquiry/orders are vitiated on account of mala fide of the Punishing Authority or of any other person involved in the process. However, as observed above, none of these factors is available in the present case. In absence of these factors, this Court would not go to the exercise of re-appreciating the material led on file by the Departmental Authority.

Although the counsel for the petitioner has also submitted qua the punishment being excessive, however, qua that aspect also this Court is of the considered opinion that the Court is not required to interfere in the quantum of punishment; unless the punishment imposed upon the delinquent employee is of the nature which shocks the conscience of the Court. In the present case, keeping in view the nature of the allegations, which includes transfer of overdraft money in the account of the customers, withdrawal and depositing back of the said amount, all without request or knowledge of the customers, and the material available against the petitioner, this Court does not find the punishment imposed upon the petitioner to be of that degree and nature. Therefore, this Court does not consider it appropriate to interfere even in the matter of quantum of punishment.

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

The pending miscellaneous application, if any, is also
disposed of as such.

22nd NOVEMBER, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes