

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

RSA-2793-2023 (O&M)

Date of decision: 14.09.2023

Reserved on: 06.09.2023

Surinder Kumar Goyal

..Appellant

Versus

UCO Bank and others

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Dr. Rav P.S.Girwar, Advocate for the appellant

ANIL KSHETARPAL, J

1. The correctness of the concurrent findings of fact arrived at by both the courts below is assailed in this Regular Second Appeal filed by the plaintiff. His suit for grant of decree of declaration that the inquiry report dated 21st March, 2012 and the order dated 5th May, 2012, whereby he was dismissed from service are illegal, null and void has been concurrently dismissed. He has also prayed for grant of decree of permanent injunction restraining the defendants from accepting or implementing the alleged inquiry report and taking any action against the plaintiff.

2. In order to comprehend the controversy involved in the present case, some relevant facts, in brief, are required to be noticed.

3. After the disciplinary inquiry was conducted, the appellant was dismissed from service vide order dated 5th May, 2012. Thereafter, he filed a departmental appeal, which was also dismissed. Then, he knocked the doors of the Civil courts by filing the civil suit. The

substance of article of charges against the appellant is extracted as under:-

Charge No.	Charge	Findings
1.	Riotous, disorderly and indecent behaviour on the premises of the Bank – a gross misconduct under clause 5(c) of Memorandum of settlement on disciplinary action procedure for workmen signed between Indian Bank Association and Workmen Unions on 10.4.2002	Proved
2.	Willful insubordination or disobedience of any lawful and reasonable order of superiors – a gross misconduct under clause 5 (e) of Memorandum of settlement on disciplinary action procedure for workmen signed between Indian Bank Association and Workmen Unions on 10.4.2002	Proved

4. Heard the learned counsel representing the appellant at length and with his able assistance perused the paper book.

5. Learned counsel representing the appellant has contended that no opportunity was given to the appellant to cross examine the witnesses. He further contends that despite the specific request of the appellant vide the application dated 24th February, 2022 to set aside ex-parte proceedings, the inquiry officer submitted the report to the disciplinary authority and therefore, he has not been granted a fair opportunity to contest the case.

6. This Court has considered the submissions made by the learned counsel representing the appellant. It has come on record that the appellant was a habitual absentee as he remained unauthorisedly absent or on leave without pay for a period of 2500 days, so far. His behaviour with all the Managers is insolent and threatening. Previous

suit filed by him was withdrawn on 22nd January, 2013. It has come on record that the inquiry officer permitted the plaintiff to join the inquiry proceedings on 28 September, 2011, 14th October, 2011, 22nd November, 2011, 7th December, 2011, 28 December, 2011, 19th January, 2012, 4th February, 2012 and 9 February, 2012. The ex-parte inquiry was completed on 9th February, 2012 and copies of the management's documents/evidence was sent to the appellant on 10th February, 2012 in order to give him an opportunity of hearing. Once again, on 21st February, 2012, the documents alongwith the copy of the written brief of the Presiding Officer were sent to the plaintiff in order to solicit his defence. The appellant while acknowledging the receipt of the aforesaid documents requested for 20 days time to file his reply, which was acceded to by the inquiry officer. However, on 9th March, 2012, the appellant sent a letter to the inquiry officer to start a de novo inquiry, which was found to be without merit. Thereafter, once again, he was given three opportunities on 10th February, 2012, 21st February, 2012 and 9th March, 2012 to submit his defence. However, the appellant failed to avail the opportunities. The inquiry report was submitted to the disciplinary authority on 21st March, 2012. The inquiry officer found that most of the alleged 34 enclosures submitted by the plaintiffs were irrelevant to the inquiry as these did not relate to the incident, which was the subject matter of the inquiry.

7. The disciplinary authority, once again granted an opportunity of hearing to the appellant by forwarding a copy of the inquiry report. On 4th April, 2012 the appellant sent a submission along

with the enclosures to the disciplinary authority. Thereafter, the disciplinary authority issued an order of proposed punishment and asked the appellant to appear before it for personal hearing on 25th April, 2012, however, on the appellant's request, it was postponed to 28th April, 2012. On 28th April, 2012, once again a fax message was received from the appellant about his inability to appear and for grant of one week's time, which was accepted and another opportunity was granted on 5th May, 2012, but the appellant did not appear. Thus, the disciplinary authority, after considering the documents produced on record, imposed the punishment of "dismissed without notice". In these circumstances, there is no substance in the argument of the learned counsel representing the appellant that he has not been granted opportunity to cross-examine the witnesses. There is also no substance in the argument of the learned counsel that despite the appellant's application dated 24th February, 2012, the ex-parte disciplinary proceedings were not set aside. As already noticed, the appellant has already been granted as many as eight opportunities. He was also given other three opportunities.

8. Keeping in view the aforesaid facts and discussion, the result is inevitable. Finding no merits, the present Regular Second Appeal is dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

14.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE