

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

219

CWP-23258-2014 (O&M)

Date of Decision : 26.07.2023

Atma Singh

..... Petitioner

Versus

Indian Bank and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sharwan Sehgal, Advocate
for the petitioner.

Mr. Tribhuwan Singla, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of order dated 26.10.2010 (annexure P-5) whereby the respondent has imposed punishment of dismissal from service; order dated 03.05.2011 (Annexure P-8) whereby the Appellate Authority has dismissed appeal and order dated 01.03.2014 (Annexure P-12) whereby reviewing authority has dismissed review application.

2. This is 2nd round of litigation. The petitioner for the same relief, on the earlier occasion, filed CWP No.14541 of 2011 before this Court which came to be dismissed vide order dated 03.07.2013. The petitioner preferred intra court appeal i.e. LPA No.1392-2013 which came up for consideration before Division Bench of this Court. A Division Bench of this Court vide order dated 08.01.2014 found that punishment awarded to the petitioner is on higher side and granted liberty to appellant

to move Reviewing Authority for reconsideration of his case regarding

imposition of punishment. The operative portion of the order dated 08.01.2012 passed in LPA No.1392 of 2013 reads as :

“The appellant came to this Court by filing CWP No. 14541 of 2011, which was dismissed by learned Single judge on 03.07.2013.

We have heard leaned counsel for the appellant and are not inclined to interfere in the orders under challenge. However, after going through the paper book, we feel that punishment awarded to the appellant in on the higher side. The alleged embezzlement is of meagre amount, which have been transferred to his Bank account at different dates.

We dispose of the appeal with liberty to the appellant to move the Reviewing Authority for consideration of his case regarding Imposition of punishment.”

3. The petitioner pursuant to aforesaid order preferred revision petition before Revisionary Authority which came to be dismissed vide order dated 01.03.2014 passed by Assistant General Manager/reviewing authority.

4. Mr. Sehgal *inter alia* contends that Reviewing Authority has not taken sympathetic view whereas has adopted pedantic approach. The charge against the petitioner was of embezzlement of meagre amount whereas he was awarded punishment of dismissal from service which is disproportionate to alleged offence. It is settled proposition of law that punishment must be proportionate to alleged offence.

In view of *wednesbury* principle as well as principles of proportionality, the awarded punishment was on higher side and needs to be reduced.

5. Mr. Singla submits that after dismissal of earlier petition

coupled with disposal of LPA, the present petition is not maintainable because relief sought is same and in view of principles of res-judicata which are applicable to writ jurisdiction, the present petition is not maintainable.

6. I have heard learned counsel for the parties and perused the record.

7. From the perusal of record, it is quite evident that a Co-ordinate Bench of this Court vide order dated 03.07.2013 has dismissed petition of the petitioner and a Division Bench of this Court in LPA has formed an opinion that Bench is not inclined to interfere in the orders under challenged, however, feels that punishment awarded is on the higher side.

8. It was upto Revisionary Authority to consider the quantum of punishment. The Hon'ble Supreme Court in catena of judgments has held that the question of quantum of punishment falls within realm of the authorities and Courts including Constitutional Courts have no authority to substitute opinion of the authorities.

9. Court may find that punishment is on higher side, however, Authorities are asked for reconsideration and that exercise has already been done in the present case.

10. In view of order passed by learned Single Judge as well as Division Bench of this Court, the present petition is not maintainable and accordingly dismissed.

26.07.2023

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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>