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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22158-2017 (O&M)
Date of Decision: 10.01.2023

NARINDER SINGH

.. Petitioner

Vs.

CENTRAL BANK OF INDIA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vijay Lath, Advocate for the petitioner.

Ms. Alisha Khan, Advocate for
Mr. H.S. Bhatia, Advocate
for the respondent-Bank.

...

Manoj Bajaj, J. (Oral)

Petitioner-Narinder Singh has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari, seeking quashing of order dated 27.05.2014 (Annexure P-6) passed by the appellate authority affirming the order dated 28.12.2013 (Annexure P-4) passed by respondent No.3, whereby his service was terminated.

Briefly, the facts leading to the writ petition are that the petitioner got appointment as a Head Clerk on 30.09.1998 with the Central Bank of India and was later on promoted on 19.05.2011 as Head Cashier. On 24.04.2012, he was placed under suspension for illegally withdrawing amount from the savings bank accounts of the account holders, while he was posted at Kalanaur branch. As per the suspension order dated 24.04.2012 (Annexure P-1), he had withdrawn the amount of Rs.25,000/- on 22.02.2012 and Rs.2,00,000/- on 12.04.2012. The departmental disciplinary

action against the petitioner was contemplated under Memorandum of Settlement on disciplinary procedure dated 10.04.2002 and a charge-sheet dated 10.09.2012 was served upon him. Apart from the above two withdrawals, he was also charge-sheeted for one more illegal withdrawal of Rs.8,000/- as well as misappropriation of cash amounting to Rs.50,000/-, dated 17.12.2010 and 05.09.2011 respectively.

After completion of the inquiry, the inquiry officer submitted the inquiry report against the petitioner and pursuant to the same, the Disciplinary Authority-Chief Manager, Branch Office, Kalanaur awarded him punishment of dismissal from service vide impugned order dated 28.12.2013.

Aggrieved against the said order, the petitioner preferred a departmental appeal before the appellate authority and the same was also dismissed on 27.05.2014 (Annexure P-6). Hence, this writ petition.

Learned counsel for the petitioner has argued that in respect of the alleged acts, the petitioner was prosecuted through FIR No.88 dated 23.09.2012 under Sections 420, 467, 468 and 471 IPC, under Section 65 Information Technology Act, 2000 and under Section 13(2) Prevention of Corruption Act, 1988 at Police Station Kalanaur, District Gurdaspur and after facing the said trial, he was acquitted. Learned counsel has drawn the attention of the Court to the judgment of acquittal dated 17.01.2017 (Annexure P-8) and submitted that the discrepancies in the prosecution case were also present during the inquiry proceedings, therefore, the conclusion of the inquiry officer holding him guilty is not sustainable in the light of the judgment dated 17.01.2017 passed by the Id. Special Judge, Gurdaspur and the impugned order of dismissal from service, which has been upheld by the

appellate authority also is not sustainable. He prays that the writ petition be allowed and the impugned orders be set aside, and further the petitioner be allowed to join his services with the respondent-bank.

After hearing the learned counsel and considering his submissions, this Court does not find any merit in the sole argument that as the petitioner stands acquitted in the criminal trial, therefore, the conclusion of the inquiry is not sustainable. By now, it is settled law that the standards of proof required in a criminal trial to bring home the guilt of an accused requires strong evidence, which must be beyond a shadow of a doubt, whereas in the inquiry proceedings, strict rules of evidence are not applicable. In this regard, reference can be made to the decision of Hon'ble Supreme Court in **2020 (9) Supreme Court cases 471, Parvin Kumar Vs. Union of India and others**, wherein the following observations were made:

“It is beyond debate that criminal proceedings are distinct from civil proceedings. It is both possible and common in disciplinary matters to establish charges against a delinquent official by preponderance of probabilities and consequently terminate his services. But the same set of evidence may not be sufficient to take away his liberty under our criminal law jurisprudence. Such distinction between standards of proof amongst civil and criminal litigation is deliberate, given the differences in stakes, the power imbalance between the parties and the social costs of an erroneous decision. Thus, in a disciplinary enquiry, strict rules of evidence and procedure of a criminal trial are inapplicable, like say, statements made before enquiry officers can be relied

upon in certain instances.”

A perusal of the judgment of acquittal dated 17.01.2017 shows that the trial Court extended the benefit of doubt to the accused. During the course of hearing, it is not disputed by Mr. Lath, learned counsel for the petitioner that when the alleged four withdrawals were made from the accounts of the account holders, he was working as Head Cashier. Further, a perusal of the impugned decision dated 28.12.2013 passed by the appellate authority reveals that the petitioner had given up his challenge to the finding of guilt recorded by the disciplinary authority and confined his prayer only to the limited extent of reduction of punishment. The appellate authority has carefully examined the decision of the disciplinary authority and the material on record while affirming the findings on his guilt on each and every charge and even his request for reduction of punishment was not accepted, as the previous conduct of the employee was also considered, who was extended the punishment of 'Censure' on three different occasions. Apart from it, his period of unauthorized absence on several occasions was also noticed while maintaining the punishment of dismissal imposed by the disciplinary authority. Thus, this Court has no hesitation in holding that the decision of the appellate authority is based upon proper appreciation of material on record, and further the disciplinary authority had followed proper procedure of inquiry.

At this stage, Mr. Lath, learned counsel for the petitioner again makes the same prayer for reduction of the punishment and suggests that the petitioner be taken in service at the lower rank than Head Cashier.

Since the petitioner is already out of service w.e.f. 2013 and considering the nature of his misconduct, this Court does not find the

punishment as disproportionate.

Resultantly, no case is made out for exercise of extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

10.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No