

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26346 of 2016 (O&M)

Date of decision: 24.02.2023

Bakshish Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CR-7858 of 2018 (O&M)

The Gurdaspur Central Co-op Bank Limited

..Petitioner

Versus

Bakshish Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arjun Pratap Atma Ram, Advocate
for the petitioner (in CWP-26346 of 2016)

Mr. Tarun Vir Singh Lehal, Advocate
for the petitioner (in CR-7858 of 2018).

Mr. D.K.Singal, Addl.A.G., Punjab

ANIL KSHETARPAL, J(Oral)

1. Two connected cases, namely Civil Writ Petition No.26346 of 2016 and Civil Revision No.7858 of 2018 have come up for final disposal.
2. The relevant facts, in brief, are required to be noticed.
3. The petitioner-Bakshish Singh was, at the relevant time, employed as an Assistant Manager in the Gurdaspur Central Co-op Bank Limited. During that period. there were allegations of embezzlement of Rs.1,50,18,300/. An FIR was registered against as many as 11 employees of the Bank. However, the police presented the challan only against 10 accused excluding Sh. Bakshish Singh (the writ petitioner). An application

under Section 319 Cr.P.C. to array the petitioner as an additional accused was dismissed by the trial Court. Ultimately, all the accused were acquitted of the said charge. The petitioner's services were dispensed with on 01.07.2013, though, he was due to retire on attaining the age of superannuation on 31.10.2013. In the appeal filed by the petitioner, the Appellate Authority directed the competent authority to hold regular inquiry before passing any order. The revision petition was filed. The order passed by the Appellate Authority was set aside on the ground that the appeal was barred on the ground of lapse of limitation period.

4. Sh. Bakshish Singh also filed a civil suit for grant of decree of declaration to implement the order passed by the Appellate Authority. The aforesaid suit after complete trial has been decreed on 29.09.2015 directing the bank to conclude the fresh inquiry within a period of 2 months. The operative part of the judgment reads as under:-

“As a repercussion of detailed discussion and finding on the issues, present suit is partly decreed with costs and defendants are directed to conclude the fresh enquiry initiated through impugned order bearing endorsement No.16515 dated 31.03.2014 within two months from this order, failing which and after expiration of this period, defendants are commanded to release the retiral benefits to plaintiff immediately along with interest at the rate of 10% compound per annum from the date, these were become due i.e. w.e.f. 31.10.2013 till the date of actual realization thereof. Decree sheet be drawn accordingly. File be consigned to record room.”

5. The learned counsel representing the Bank admits that in compliance with the aforesaid directions, fresh departmental inquiry has

already been completed by the competent authority.

6. The bank i.e. the management, filed an appeal against the judgment and decree passed by the trial court which has been dismissed on the ground of expiration of the limitation period. The aforesaid order has been challenged in a revision petition.

7. Sh. Arjun Pratap Atma Ram, the learned counsel representing Sh. Bakshish Singh submits that the aforesaid 10 accused, who were acquitted by the Court filed proceedings before the Labour Court in which it has been ordered that they shall stand compulsorily retired with effect from 01.07.2013. In the writ petition, the order passed by the Labour Court has been affirmed. An application for review is stated to be pending.

8. Notwithstanding, the situation is that on the one hand the Appellate Authority has directed a fresh inquiry. The trial Court has also ordered a fresh inquiry which has been completed. However, the order passed by the Appellate Authority was set aside by the revisional authority in the departmental proceedings but the judgment of the civil Court is continues to be in force. In such circumstances, if the court condones the delay in filing the first appeal and restore the appeal the conclusion of the proceedings is likely to take time.

9. On the other hand, once a fresh inquiry has been held, the matter can be expedited by directing the bank to conclude the proceedings in accordance with law.

10. Sh. Arjun Pratap Atma Ram, the learned counsel representing the petitioner has stated that the respondent-bank is likely to conclude the proceedings in the petitioner's dismissal, however, such dismissal cannot operate retrospectively. He relies upon the judgment passed in **Gurbachan**

Singh Bachi vs. State of Punjab and other, 2005 (1) SCT, 681 and *Gian Singh vs. State of Punjab and others, 2015 (41) R.C.R. (Civil) 866.*

11. Taking into consideration the cumulative facts which have already been noticed, this Court is of the opinion that further delay in conclusion of the proceedings shall not be appropriate. Hence, the petitions are disposed of by directing the respondent-bank to finalise the disciplinary proceedings within a period of 2 months, from today, positively.

12. The order passed by the revisional authority shall stand set aside.

13. In the meantime, further proceedings in the execution filed by the petitioner will be kept in abeyance till the disciplinary proceeding concludes.

14. At this stage, Sh. Arjun Pratap Atma Ram, Advocate, has brought to the notice of the Court that as an interim measure, Sh. Bakshish Singh has filed an application for release of his retiral benefits.

15. Since, the matters are being disposed of, the petitioner shall have the liberty to file an application regarding the same before the Bank.

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

February 24, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*