

CM-12298-CWP-2022 in/and
CWP-8950-2017

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2023:PHHC:125712

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

113+222

CM-12298-CWP-2022 in/and
CWP-8950-2017
Date of Decision : 25.09.2023

Balbir Singh Saini

..... Petitioner

Versus

Punjab and Sind Bank and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.H.C.Arora, Advocate
for the petitioner.

Mr. I.P.Singh, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

CM-12298-CWP-2022

Prayer in this application is for placing on record the replication.

Allowed as prayed for and the replication is taken on record subject to all just exceptions.

Registry is directed to tag the same at an appropriate place.

CWP-8950-2017

1. The petitioner through instant petition under Article 226 of Constitution of India is seeking setting aside of order dated 24.12.2013 (Annexure P-4) whereby disciplinary authority has imposed penalty upon the petitioner; order dated 03.04.2014 (Annexure P-6) whereby appellate

authority has confirmed punishment order and order dated 10.10.2016 (Annexure P-8) whereby reviewing authority has partially allowed revision of the petitioner.

2. Learned counsel for the petitioner, at the outset, submits that respondent appointed Enquiry Officer who submitted his report to the disciplinary authority. The petitioner was not supplied enquiry report and disciplinary authority imposed penalty. The petitioner filed appeal before appellate authority wherein petitioner specifically pointed out that he has not been supplied enquiry report. The appellate authority returned a finding to the effect that enquiry report was duly sent to appellant for his comments and on non-receipt of his comments, final punishment order was passed. The petitioner in his review application also submitted that he has not been supplied enquiry report. The reviewing authority partially allowed revision, however, did not advert with submission of the petitioner that he has not been supplied enquiry report.

3. Learned counsel for the respondents submits that as per extracts of dispatch register, copy of enquiry report was dispatched, thus, stand of the petitioner is not sustainable.

4. On being asked, learned counsel for the petitioner expressed his inability to show that enquiry report was physically handed over to the petitioner. The only stand of the respondents is that as per their dispatch register, enquiry report was sent to the petitioner. It is surprising that petitioner requested for enquiry report before appellate as well as revisionary authority, however, none of the authorities deem it appropriate to supply enquiry report which was foundation of entire proceedings. From

the dispatch register, it cannot be conclusively culled out that enquiry report was dispatched and duly received by the petitioner. The respondents have not even placed on record postal receipt indicating that report was sent by speed post or registered post warranting inference in terms of Section 27 of General Clauses Act. The petitioner has been subjected to punishment and he had unblemished record of 37 years. The respondents, considering track record of the petitioner, in terms of regulations 17 of Punjab and Sind Bank Officer, Employees' (Conduct) Regulations, 1981, were at least supposed to supply enquiry report. There is nothing on record which prevented appellate as well as revisionary authority to supply enquiry report to the petitioner. It is settled proposition of law that writ is maintainable and Courts are supposed to interfere if procedure prescribed by law has not been followed. The petitioner was not supplied copy of enquiry report, thus, there was complete non-compliance of prescribed procedure as well as principles of natural justice.

5. In the wake of above facts and findings, this Court is of the considered opinion that impugned orders deserve to be quashed and accordingly quashed. The respondent is at liberty to pass afresh order after supplying copy of enquiry report.

Disposed of.

25.09.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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