

2023:PHHC:093008
**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-727-2023 (O&M)
Date of decision: 21.07.2023

Goverdhan Dass @ Govardhan Dass Rishi and another

....Appellants

Versus

Punjab National Bank and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vijay Sharma, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

1. The correctness of the concurrent findings of fact arrived at by the courts below is being challenged by the legal representatives of the plaintiff. In the civil suit, the plaintiff challenged the correctness of the order dated 25.02.2010 passed by the competent authority to recover all the losses suffered by the respondent-Bank. It has come on record that the plaintiff when he was as a Bank Manager, exercised undue pressure in ensuring advancement of loan to Ms. Kusum Rishi in the year 2001. The address borrower was the same address at which the plaintiff was residing. The surname of the borrower as well as the plaintiff is same. A default was committed in the repayment of the loan. The plaintiff was served with a charge-sheet and was given an opportunity to file a reply. After considering his reply, a detailed order was passed imposing minor penalty for recovery of the amount.

Although, there were two charges but the plaintiff was exonerated from

charge no.2 Civil suit filed by the plaintiff has been dismissed by both the courts below on the appreciation of evidence.

2. Heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

3. Learned counsel representing the appellant has made the following three submissions:-

i) As per Regulation 4(d), the recovery is permissible from pay or such other amount as may be due to the employee. The argument of the learned counsel is that such other amount relates to pay and not retiral benefits as the retiral benefits are not dues.

ii) It is further submitted that no recovery can be ordered from the retiral benefits without a regular inquiry.

iii) He further submits that recovery cannot be ordered from the retiree if the incident is more than 4 years old.

4. This Court has considered the submission. Relevant part of Regulation 4 of Punjab National Bank Officer Employees (Discipline & Appeal) Regulations, 1977 is extracted as under:-

“4. Penalties:-

The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons:-

Minor Penalties

- (a) Censure*
- (b) Withholding of increment of pay with or without cumulative effect;*
- (c) Withholding of promotion;*

(d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the bank by negligence or breach of orders.

(e) Reduction to a lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and no adversely affecting the Officer's pension."

5. As is evident, clause (d) permits recovery from pay and such other amount as may be due to the employee. The phrase 'such other amount as may be due to the employee' cannot be given a restricted meaning particularly when the recovery was ordered while the appellant was in service. Once the amount became due, when the plaintiff was in service, the regulation did not debar the Bank from adjusting the amount payable to the employee.

6. As regards the second argument, it may be noted that the order of punishment was passed on 25.02.2010 when the plaintiff was in service. Hence, the order of recovery is not passed when the plaintiff has already retired.

7. The last submission of the appellant also does not have substance as no evidence has been led that default in payment of the loan was more than 4 years old when the proceedings were initiated. In any case, the correctness of this argument for the first time cannot be examined in the Regular Second Appeal unless it is established that the loan became non-performing asset more than 4 years before the initiation of the proceedings.

8. In view of the aforesaid, no ground to issue the writ, as prayed for, is made out.
9. Hence, dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

21.07.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE