

2023:PHHC:166400

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-14944-2017

DECIDED ON: 4th JULY, 2023

YADVINDER SINGH DHULL

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Anil Ghanghas, Advocate
for the petitioner.

Mr. Bhushan Bhatia, Advocate
for respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under Articles 226/227 of the Constitution of India for issuance of writ of Certiorari for quashing supplementary chargesheet dated 30.06.2014 (Annexure P-5), the enquiry report dated 16.02.2017 (P-9), the punishment order dated 12.03.2018 (P-15) and order in the appeal dated 8.06.2018 (P-17) being contrary to the Regulations and further for issuance of writ in the nature of Mandamus directing respondent bank to reinstate the petitioner in service with consequential benefits including pay and arrears of salary with interest @12% per annum from the date it become due till the date of actual payment.

2. The brief facts of the case are as under:-

The petitioner joined Hisar-Sirsa Gramin bank as officer scale-I in 1988 and was promoted as officer scale-II in 28.08.2004 and later as Manager, Regional Office Hisar.

In 2005, Hisar-Sirsa Gramin Bank was amalgamated in Haryana Gramin Bank with its separate regulations for its employees i.e Haryana Gramin Bank (Officers & Employees) Service Regulation, 2010 (hereinafter referred in short as 'Regulations of 2010').

Under the above mentioned regulation, petitioner was charge-sheeted vide memo dated 30.05.2013 (Annexure P-2) under Section 39 of Regulations of 2010 on account of certain irregularities. None of the charges were made out against him and still the respondent bank ordered Disciplinary Inquiry vide order dated 05.11.2013.

Petitioner was charge-sheeted for sanctioning and disbursing more than 300 loan accounts but the same were dropped after inquiry vide order dated 06.10.2015.(Annexure P-2/A)

On 29.11.2013(P-3), two Regional Rural Banks (Gurgaon Gramin Bank & Haryana Gramin Bank) were amalgamated by Union of India by the name Sarva Haryana Gramin Bank under sponsorship of Punjab National Bank.

According to para 7(a) of the above-stated notification dated 29.11.2013, "the employees would work on same terms and conditions by which they were governed immediately before the effective date of amalgamation till the time Regulation by the new entity is not published."

3. Learned counsel for the petitioner contends that according to Regulation 2(g), the competent Authority to take disciplinary action against officer is Chairman. On 30.06.2014, the petitioner was issued supplementary chargesheet by the General Manager (Respondent-3) as Disciplinary Authority under Regulation 39 of Haryana Gramin Bank

Regulations. Later the Disciplinary Authority appointed Sh. M.S.Yadav, Senior Manager as Inquiry Officer.

4. He also submits that petitioner being Officer Scale II(Manager), the disciplinary proceedings cannot be initiated by General Manager or Senior Manager as competent Authority. As per the regulation, Chairman is the competent Authority. It is further stated that previous sanction of Central Government was not obtained for publication of Amended Regulation therefore The Haryana Gramin Bank Service (Amendment) Regulation, 2013 cannot be applied.

5. It is further asserted on his behalf that the inquiry was concluded illegally and in an arbitrary manner on 28.04.2016 when petitioner had gone to Mandi Adampur, District Hisar on 27.04.2016 to collect record in his defense. Out of nine witnesses mentioned, only two were allowed to be examined and the final inquiry report was submitted by Inquiry Officer on 16.02.2017 to Respondent no 3.

6. The counsel for the petitioner vehemently lays much stress to the fact that after giving various representations to the department requesting for re-inquiry and change in Disciplinary Authority, no action has been taken thereupon so far and on 12.03.2018, the General Manager, went on to impose major penalty of compulsory retirement (Annexure P-15) against which he preferred an appeal before the Chairman of the respondent bank on 22.04.2018 (Annexure P-16), though the same was dismissed without looking into the facts.

7. Mr. Anil Ghanghas, learned Advocate lastly argues that issuing of supplementary chargesheet was contrary to the Staff

Accountability Policy dated 07.11.2012 (Annexure P-21), which provides for a mechanism to identify only those employees, who are prima facie found guilty for the lapse(s) in complying with the laid down system and procedures or misconduct.

8. On the other hand, learned counsel for the respondent bank contends that as per guidelines of Department of Financial Services, New Delhi in terms of its letter no F/7/20/2012-RRB dated 13.06.2013, the competent authority under Regulation 2(g) was modified in Haryana Gramin Bank after consultation with Punjab National Bank & NABARD and with previous sanction of Central Government vide Gazette Notification dated 05.07.2013 (P-6) and, therefore, prays for dismissal of the petition, since the supplementary charge-sheet has been issued duly by the Competent Authority under Regulation 2(g).

9. The counsel for the respondent also responded to the contention qua competence of authority stating that the petitioner submitted his letter to the Chairman for the change of Disciplinary Authority & re-inquiry after 3 months of submission of Inquiry Report by the Inquiry Officer which clearly shows his intention to linger on the departmental proceedings. It is further stated that since 13.12.2013 i.e from the beginning of inquiry proceedings, the petitioner was given abundant opportunities to present his defense documents and witnesses (if any) but he did not attend the inquiry proceeding on many occasions without any base.

10. It has been strongly put forward by the respondents that the respondent bank has been put to loss of approximately 2 crores which has

been reported to the Reserve Bank of India. This being declared as Fraud, the petitioner cannot claim the benefit of Staff Accountability Policy 07.11.2012 (Annexure P-21).

11. Heard, learned counsel for respective parties.

12. From the contentions of both the sides, the bone of contention would culminate into the question as to whether the supplementary charge-sheet is in violation of Staff Accountability Policy 07.11.2012 (Annexure P-21) and further is issued by the Competent Authority or not.

13. Clause 7(a) of notification issued by Ministry of Finance, Department of Financial Service, Government of India dated 29.11.2013 (Annexure P-3) has been pressed into argument by the petitioner, which needs to given a look and hence the same is recorded hereinbelow:-

“7(a) The service of all the employees of the transferor Regional Rural Banks excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947 shall continue. In the transferee Regional Rural Bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were governed immediately before the effective date of amalgamation.”

14. An effort has been made deriving support from the Clause 7(a) that the services of the petitioner shall continue in the Regional Rural Bank at the same terms and conditions of service by which he was governed immediately before the effective date of amalgamation while putting challenge to the issuance of supplementary charge-sheet in question. It is to be noted here that the Haryana Gramin Bank was established by amalgamation of three Regional Rural Banks existing within the State of

Haryana at that time under the title (i) the Ambala Kurushetra Kshetriya Gramin Bank (ii) Hisar Sirsa Kshetriya Gramin Bank and (iii) Haryana Kshetriya Gramin Bank in the year 2005 which was sponsored by the Punjab National Bank. Pertinently Gurgaon Gramin Bank and Haryana Gramin Bank were governed by the same service regulations, though having a distinct title such as Gurgaon Gramin Bank (Officers and Employees) Service Regulation, 2010 and Haryana Gramin Bank (Officers and Employees) Service Regulation, 2010 having the provisions *par materia*. Both these banks were further amalgamated into a single entity i.e., Sarv Haryana Gramin Bank vide Government of India notification dated 29.11.2013 (Annexure P-3) and as such since the petitioner was already working with the Haryana Gramin Bank in no way is affected vide Clause 7(a) of the notification dated 29.11.2013, as such, this Court has no hesitation to hold that supplementary charge-sheet issued to the petitioner does not suffer from any infirmity or illegality.

15. Coming to the second contention that whether the said charge-sheet issued by the Competent Authority, it would be appetite to refer to para 10 of the written statement filed on behalf of respondents No.2 & 3 and the letter dated 13.06.2013 issued by the Ministry of Finance, Government of India available on record of the case file as Annexure R-1, according to which the Competent Authority under Regulation 2(g) of Regulations 2010 was modified in Haryana Gramin Bank after due consultation with the sponsored bank i.e., Punjab National Bank as well as National Bank for Agriculture and Rural Development (NABARD). Such modification also has the concurrence of the Government of India vide

Gazette Notification dated 05.07.2013 (Annexure P-6) as published in the Gazette of India thereafter on 29.07.2013 (Annexure R-2) much prior to the amalgamation of Gurgaon Gramin Bank and Haryana Gramin Bank, which states as under:-

- A. Chairman in respect of Officer, Scale-III, IV and V*
- B. The General Manager in respect of Officers, Scale-I and II*
- C. An officer not below the rank of Scale-IV in respect of employees relating to Group 'B' Office Assistant (multi purpose) and Group 'C' Office Attendant (multi purpose) as decided by the Board.*

16. Since the petitioner is in Officer cadre scale-II (Manager) is appointing authority would be the General Manager as per the modified Regulations discussed hereinabove, the supplementary charge-sheet dated 30.06.2014 (Annexure P-5) has been issued by the General Manager being the Competent Authority and as such the question of Competent Authority is also goes against the petitioner, as the argument on his behalf is found not tenable in law.

17. This Court is also conscious of the fact that perusal of inquiry report dated 16.02.2017 (Annexure P-9) was concluded after giving ample opportunities to the petitioner, wherein huge loss to the tune of Rs.2 crores approximately has been recorded therein, which is difficult to be recovered for the Reserve Bank of India. It is not only the loss to the Reserve Bank of India, but it tantamount to Swindling with the hard-earned money of the citizens, which needs to be dealt with sternly.

18. Therefore the court is of the opinion that major penalty in terms of compulsory retirement has been aptly imposed by the disciplinary authority, which does not warrant for any interference.

19. In view of the discussions made hereinabove, the present petition dismissed being devoid of merits with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

4th JULY, 2023
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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No