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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 18497/2006 & CM APPL. 25869/2017**INDERJIT SINGH SURI**

..... Petitioner

Through: Mr. Javed Ahmad, Ms.
Aakriti Aditya, Advocates
(M:9810518138)

versus

DENA BANK & ANR

..... Respondents

Through: Mr. Brijesh Kumar Tamber,
Mr. Vinjay Singh Bist, Mr.
Yashu Rustagi, Advocates for
R-1/Dena Bank

CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****03.07.2023****MINI PUSHKARNA, J.**

1. The present writ petition has been filed challenging the order dated 24.06.2004 passed by the Disciplinary Authority, by which the petitioner was dismissed from service. The said order of dismissal passed by the Disciplinary Authority was upheld by the Appellate Authority vide order dated 22.09.2004. The review filed by the petitioner was also dismissed by the Reviewing Authority vide order dated 27.04.2006. The petitioner has also challenged the aforesaid orders passed by the Appellate Authority and Reviewing Authority in the present petition and seeks re-instatement in service along with all service benefits and continuity of service.



2. Facts in brief are that the petitioner was appointed as Clerk-cum-cashier in the respondent Dena Bank on 15.11.1971. He was promoted to the post of Junior Management Grade-I on 01.06.1981.

3. He was placed under suspension from the service of the respondent bank vide order dated 19.02.2000, when he was posted as Accountant/Junior Grade Officer in Mayapuri Branch of the respondent bank. Later, upon application of the petitioner, suspension order against the petitioner was revoked vide order dated 06.01.2002, however, with the stipulation that the period of suspension shall not be treated as on duty.

4. Subsequently, a show cause notice dated 11.01.2003 was issued against the petitioner by the respondent bank stating that the petitioner had unauthorisedly allowed temporary overdrafts and unauthorised cheque purchase facility by debiting the Imprest Clearing Account. The petitioner filed his reply to the show cause notice thereby submitting that all the cheques were purchased and authorised by the Branch Manager and the same were reported to the Head Office by the Branch Manager of the Bank. Thus, the petitioner had not committed any irregularity.

5. Since the explanation as given by the petitioner was not found satisfactory, it was decided to hold inquiry against him. Thus, charge sheet dated 08.04.2003 was issued against the petitioner on the following Article of charges:-

“Annexure- I to the Memorandum No. NDR/PER/WIN/1100/2003 dated 08/04/2003

Article of Charges



During the period from June 1997 to January 1999, when Shri I.S. Suri was working as Officer, Mayapuri Branch, he is reported to have committed irregularities and acts of commission/omission by unauthorisedly allowing temporary overdrafts, unauthorized cheque purchase facilities by debiting the Impreset Clearing Account to various constituents details of which are in the enclosed statement of allegations, which amount to misconduct in terms of Regulation 3 read with Regulation 24 of Dena Bank Officer Employees' (Conduct) Regulations, 1976 punishable with Dena Bank Officer Employees (Discipline & Appeal) Regulation, 1976. He is, therefore, charged as under:-

- 01. He committed acts of gross irregularities by unauthorisedly allowing temporary overdrafts, unauthorized cheque purchase facilities by debiting the Impreset Clearing Account which amounts to acts involving lack of integrity and honesty.*
- 02. He failed to take all requisite steps to ensure and protect the interest of the Bank and committed acts of such commissions and omissions which were detrimental, prejudicial and injurious to the interest of the Bank.*
- 03. He violated/flouted the rules and procedures of the Bank and in exercise of discretionary powers conferred on him exceeded his authority in allowing above unauthorized accommodation to various constituents. He thus exposed the Bank to risk of financial loss.*
- 04. His irregular actions have caused or are likely to cause serious financial loss to the Bank.*
- 05. He committed acts unbecoming of an officer of the Bank."*

6. Enquiry proceedings were held against the petitioner and by his report dated 15.03.2004, the Enquiry Officer held that the charges against the petitioner were proved. The petitioner filed his representation dated 16.04.2004 against the report of the Enquiry



Officer, which was considered by the Disciplinary Authority.

7. The petitioner was dismissed from service vide memorandum dated 24.06.2004. He preferred an appeal, which was dismissed by the Appellate Authority vide memo dated 22.09.2004. The petitioner filed Review Petition, which was also dismissed by the Reviewing Authority vide his order dated 27.04.2006. Thus, the present writ petition has been filed.

8. On behalf of the petitioner, it is submitted that the dismissal order passed by the Disciplinary Authority is totally unjustified and arbitrary. Petitioner has been dismissed from service despite the fact that the petitioner was a lower functionary and had not committed any serious irregularity. Whatever was being done in the branch by the then Branch Manager, was being done under the instructions and tacit approval of the Regional Manager.

9. It is submitted that the inquiry was conducted in violation of Principles of Natural Justice with predetermined and biased mind at the behest of senior officers of the bank. The findings of the Enquiry Authority are perverse and against the facts and circumstances of the case.

10. It is contended that the Inquiring Authority failed to appreciate the fact that the discretionary power to purchase the cheques vested only in the Branch Manager of the bank. The petitioner has been wrongly and with malafide intention held guilty. It is submitted that the Disciplinary Authority has accepted the finding of the Inquiry Officer without appreciation of the fact that petitioner was only a Junior rank Officer working under the Bank Manager.



11. It is further contended that the appeal of the petitioner was dismissed by the Appellate Authority mechanically, without proper appreciation of the evidence against the petitioner and even ignoring the request for grant of an opportunity for personal hearing to explain the case in person.

12. It is submitted that action on the part of the respondent bank to dismiss the petitioner from service is not only vindictive, but also disproportionate to the alleged guilt committed by the petitioner. Whereas, the actual officer responsible for the wrongs done in the bank at Mayapuri Branch was Sh. P.K. Sahi, the then Branch Manager, who has been let off only with mild punishment of reduction in rank. While the said Sh. P.K. Sahi has been retained in service, the petitioner has been dismissed from service.

13. It is further submitted that criminal case was instituted against the petitioner under The Prevention of Corruption Act, 1988 (PC Act) on 24.01.2001, along with other officials of the bank. A Special Judge (PC Act), CBI, Saket Court by judgment dated 06.09.2014 acquitted the petitioner herein, along with Sh. P.K. Sahi. It is submitted that during the relevant time Sh. P.K. Sahi was the Manager, while the petitioner was the Accountant. Charge sheet was served upon Sh. P.K. Sahi making the same allegations and inquiry was held against him. Sh. P.K. Sahi was held guilty by the Enquiry Officer. However, Sh. P.K. Sahi was imposed with the punishment of reduction of pay scale. Thus, it is contended that the petitioner has suffered discrimination.

14. In support of his submissions, learned counsel for the petitioner



has relied upon the following judgments:-

- (i) ***G. M. Tank Vs. State of Gujrat & Ors., (2006) 5 SCC 446***
- (ii) ***State Bank of Hyderabad & Anr. Vs. P. Kata Rao., (2008) 15 SCC 657***
- (iii) ***S. Bhaskar Reddy & Anr. Vs. Superintendent of Police & Anr., (2015) 2 SCC 365***
- (iv) ***Joginder Singh Vs. Union Territory of Chandigarh & Ors., (2015) 2 SCC 377***
- (v) ***P. M. Ratnakar Vs. UCO Bank, Mumbai, 2009 LawSuit (Bom) 1572***
- (vi) ***Bhagat Ram Vs. State of Himachal Pradesh & Ors., AIR 1983 SC 454***
- (vii) ***Ranjit Thakur Vs. Union of India & Ors., AIR 1987 SC 2386***
- (viii) ***B. C. Chaturvedi Vs. Union of India & Ors., JT 1995 (8) SC 65***
- (ix) ***Basti Ram Vs. Union of India & Ors., 1996 (3) SLR 308***
- (x) ***Coimbatore District Central Cooperative Bank Vs. Coimbatore District Central Cooperative Bank Employees Assn. & Anr., (2007) 4 SCC 669***
- (xi) ***State of Andhra Pradesh and Others Vs Chitra Venkata Rao, (1975) 2 SCC 557***
- (xii) ***Rajender Yadav Vs State of Madhya Pradesh, 2013 (3) SCC 73***



15. On the other hand, on behalf of the respondent, it is contended that the petitioner committed acts of gross irregularities. The Enquiry Officer found all the charges against the petitioner as proved, which were rightly accepted by the Disciplinary Authority.

16. It is submitted that the penalty was imposed upon the petitioner commensurate with the gravity of the charges proved against the delinquent employee. Sh. P.K. Sahi was punished for misconduct keeping in view the acts of commission and omission committed by the him and gravity of his misconduct. The disciplinary action initiated against Sh. P.K. Sahi and petitioner cannot be compared.

17. It is further submitted that the inquiry was conducted following the Principles of Natural Justice. The Enquiry Officer conducted an exhaustive inquiry and analysed in detail the proceedings, exhibits and witnesses. The petitioner was provided all the opportunities to defend his case.

18. I have heard learned counsels for the parties and have perused the record.

19. The petitioner was working as Accountant with the respondent bank at the material time. He was charged with grave offence of unauthorisedly allowing temporary overdrafts and unauthorised cheque purchase facility, which resulted into loss to the bank. The charges levelled against the petitioner were duly proved during the course of inquiry proceedings. Thus, the petitioner was held guilty of committing acts of gross irregularities, which were detrimental and prejudicial to the interest of the bank. It is, therefore, clear that charges



against the petitioner were grave and serious.

20. The approach of the Courts in dealing with cases of bank employees who are accused of serious charges, is very different. The bank officials are expected to discharge their duty with utmost integrity and honesty in view of the nature of their duties and functions, involving large financial transactions and public money. Courts deal with such bank employees with utmost strictness as they are expected to work with highest degree of trustworthiness. Thus, in the case of ***Vijay Malhan Vs Union of India and Others***¹, this Court held as follows:-

“78. In respect of delinquent bank employees a distinct jurisprudence has developed. In Chairman and Managing Director, United Commercial Bank v. P.C. Kakkar, (2003) 4 SCC 364, the Hon'ble Supreme Court has held that:

“14. A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik ((1996) 9 SCC 69), it is no defence available to say that there was no loss or profit resulted in case,

¹ 2022 SCC OnLine Del 3392



when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct.....”

79. *In Regional Manager, U.P. SRTC, Etawah v. Hoti Lal, (2003) 3 SCC 605, the Hon'ble Supreme Court held as under:*

“10.If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, highest degree of integrity and trustworthiness is a must and unexceptionable.....”

80. *In State Bank of India v. Ramesh Dinkar Punde, (2006) 7 SCC 212, it was held by the Hon'ble Supreme Court that:*

“21. Confronted with the facts and the position of law, learned counsel for the respondent submitted that leniency may be shown to the respondent having regard to long years of service rendered by the respondent to the Bank. We are unable to countenance with such submission. As already said, the respondent being a bank officer holds a position of trust where honesty and integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently. The respondent was



a Manager of the Bank and it needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer so that the confidence of the public/depositors is not impaired. It is for this reason that when a bank officer commits misconduct, as in the present case, for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently.”

81. Therefore, the approach of the Court towards a bank employee against whom charges of serious financial misconduct has been proved by the Disciplinary Authority as well as the Appellate Authority, after a reasoned order based on material evidence, should not be lenient and must be dealt in a strict manner. Unless violation of principles of natural justice, inter alia, is said to have been proved by the Petitioner causing prejudice to the Petitioner in his defence, the Court should not interfere in the concurrent findings by the authorities below.”

21. Thus, it is clear that no leniency can be shown to the petitioner when grave charges against him have been proved in the disciplinary proceedings. It has been held time and again that courts do not interfere with quantum of punishment, unless there exists sufficient reasons. The punishment imposed by the Disciplinary Authority cannot be subjected to judicial review unless it shocks the conscience of the Court. In the case of *State of Meghalaya and Others Vs*



Mecken Singh N. Marak², it has been held as follows:-

“14. In the matter of imposition of sentence, the scope for interference is very limited and restricted to exceptional cases. The jurisdiction of the High Court, to interfere with the quantum of punishment is limited and cannot be exercised without sufficient reasons. The High Court, although has jurisdiction in appropriate case, to consider the question in regard to the quantum of punishment, but it has a limited role to play. It is now well settled that the High Courts, in exercise of powers under Article 226, do not interfere with the quantum of punishment unless there exist sufficient reasons therefor. The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review. In the impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to give reasons amounts to denial of justice. The mere statement that it is disproportionate would not suffice.

15. While considering the question of proportionality of sentence imposed on a delinquent at the conclusion of departmental enquiry, the court should also take into consideration, the mental set-up of the delinquent, the type of duty to be performed by him and similar relevant circumstances which go into the decision-making process. If the charged employee holds the position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct, in such cases has to be dealt with with iron hands.”

22. The petitioner has not been able to show that Principles of Natural Justice were not followed. Rather, perusal of the documents on record, clearly show that the petitioner herein was granted full

² (2008) 7 SCC 580



opportunity to defend himself and present his defence during the course of the disciplinary proceedings. Once it is seen that enquiry proceedings have been conducted properly after affording due opportunity to the delinquent employee, then the Court will not reassess the evidence or interfere with the findings in the departmental proceedings. In the case of ***State Bank of Bikaner and Jaipur Vs Nemi Chand Nalwaya***³, Supreme Court held as follows:-

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] , Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] , Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036] and High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1

³ (2011) 4 SCC 584



SCC 416 : 2000 SCC (L&S) 144] .)”

23. In the present case, considering the grave charges against the petitioner which have been proved in the inquiry proceedings held against the petitioner, it cannot be said that the punishment of dismissal from service imposed upon the petitioner is disproportionate in any manner.

24. As regards the contention on behalf of the petitioner that discriminatory treatment has been meted out to him at the time of imposition of punishment, the same is without any merit. The respondent has clearly explained that P.K. Sahi was punished for his misconduct keeping in view acts of commission and omissions committed by him and gravity of misconduct. Undoubtedly, penalty is imposed by the Disciplinary Authority commensurate with the gravity of the proved misconduct. There is nothing on record to prove that there is any discrimination against the petitioner as regards imposition of penalty upon him, when charges against him have been duly proved during the course of disciplinary proceedings. This Court in the case of *Sub Inspector Rajinder Khatri Vs Government of NCT of Delhi and Others*⁴, has categorically held that awarding different punishments to different officials who were served charge sheets on the same allegations, would not amount to discrimination. Thus, it has been held as follows:-

“8. In Chanderalpal v. NCT of Delhi, 2002 VIII AD (Delhi) 252 a Full Bench of this Court was of the view that awarding different punishments to different officials, who

⁴ 2012 SCC OnLine Del 1252



were served charge-sheets on the same allegations would not amount to discrimination. The issue referred to the Full Bench in that case was as to whether an order of the Appellate Authority had to be set aside only on the ground that on purported similar charges, the Appellate Authority himself had set aside the order of punishment. After considering various judgments of Supreme Court on the subject, the Full Bench, inter alia, held as under: "A writ of mandamus can be sought for by a person when there exists a legal right in himself and a corresponding legal obligation on the respondents. Equality clauses enshrined in Articles 14 and 16 of the Constitution of India would apply only when the petitioner has been deprived of a legal right. A delinquent officer in no circumstances can based his claim invoking equality clause where its foundation is based on illegality." He cannot be permitted to urge that although he is guilty of commission of a misconduct he should not be punished only because others have been let off either by mistake or otherwise.

x x x x x

Article 14 speaks of equality before law and equal protection of law. The claim of equality and the claim of equal protection thus must be claimed within the four corners of law. Furthermore, it is well settled that two wrongs do not make one right."

25. Supreme Court in the case of **Administrator, Union Territory of Dadra and Nagar Haveli Vs Gulabhia M. Lad⁵**, has held that in the matter of imposition of punishment, even where joint disciplinary inquiry is conducted, same or similarity of charges is not decisive. The imposition of punishment is dependent on many factors such as gravity of mis-conduct, past conduct, previous penalty etc. Thus, it has been held as follows:-



“14. The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or a tribunal would not substitute its opinion on reappraisal of facts.

15. In a matter of imposition of punishment where joint disciplinary enquiry is held against more than one delinquent, the same or similarity of charges is not decisive but many factors as noticed above may be vital in decision making. A single distinguishing feature in the nature of duties or degree of responsibility may make a difference insofar as award of punishment is concerned. To avoid multiplicity of proceedings and overlapping adducing of evidence, a joint enquiry may be conducted against all the delinquent officers but imposition of different punishment on proved charges may not be impermissible if the responsibilities and duties of the co-delinquents differ or where distinguishing features exist. In such a case, there would not be any question of selective or invidious discrimination.”

26. Moreover, the petitioner himself has admitted that another Branch Manager, Sh. B.D. Sharma of the respondent bank was also dismissed from service on similar grounds. In this regard, para 23 of

⁵ 2010 SCC OnLine SC 530



the writ petition is reproduced as under:-

“23. That the Branch Manager Shri B.D. Sharma of Mayapuri Branch, New Delhi of the Respondent Bank has also been dismissed from service of the bank on the similar grounds. He has also filed Civil Writ Petition under Article 226 of the Constitution of India before this court in 2005 and the same is pending adjudication.”

27. Hence, it is clear that other officials of the bank have also been visited with penalty of dismissal from service, on similar charges having been proved against them. During the course of arguments, it has been categorically submitted on behalf of the respondent bank that there were four co-delinquents, out of which three have been imposed with the punishment of dismissal from service, including the petitioner herein. Therefore, petitioner cannot contend that he has been discriminated in imposition of penalty. Besides, it is the categorical stand of the respondent that Sh. P.K. Sahi who was imposed the punishment of only reduction in pay scale, had clear antecedents, while the petitioner was involved in irregularities in the past also. Thus, while dismissing the Review Petition of the petitioner, the Reviewing Authority by its order dated 27.04.2006 had held as under :-

“8.1 The information relating to transfer and posting given in para 7.1 is matter of records. However, the contention of Shri Suri that he has put 23 years of unblemished service is not true. A Chargesheet dated 01.04.1988 was issued to him in connection with irregularities committed by him while opening/dealing with current accounts while he was posted at Lodhi Road Branch, New Delhi. Penalty of “Censure” was imposed upon him vide order dated 30.07.1999.”



28. Further, Supreme Court in the case of *Anil Kumar Upadhyay Vs The Director General, SSB and Others*⁶, has held categorically that merely because one of the co-delinquents was inflicted with a lesser punishment, the same cannot be a ground to hold the punishment imposed on other employee as disproportionate. Thus, it has been held as follows:-

“25. Even otherwise, merely because one of the employees was inflicted with a lesser punishment cannot be a ground to hold the punishment imposed on another employee as disproportionate, if in case of another employee higher punishment is warranted and inflicted by the disciplinary authority after due application of mind. There cannot be any negative discrimination. The punishment/penalty to be imposed on a particular employee depends upon various factors, like the position of the employee in the department, role attributed to him and the nature of allegations against him.....”

29. In view of the aforesaid detailed discussion, I do not find any merit in the present petition. Accordingly, the present writ petition is dismissed.

(MINI PUSHKARNA)
JUDGE

JULY 03, 2023

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⁶ 2022 SCC OnLine SC 478