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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12448-2020 (O&M)
Date of decision: 26.02.2024

SUBHASH CHANDER

...Petitioner

VERSUS

THE SIRSA CENTRAL COOPERATIVE BANK LTD AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Ashwani Gaur, Advocate and
Ms. Shivangi Sharma, Advocate
for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned show cause notice dated 27.07.2020 (Annexure P-3) issued by the respondents to the petitioner for dismissal from service.

2. Learned counsel for the petitioner submitted that it is a case where the respondents have conducted departmental inquiry against the petitioner and after conducting the inquiry, the impugned show cause notice (Annexure P-3) has been issued to the petitioner without even supplying the inquiry report to him. He further submitted that it has been specifically so pleaded in para No.7(ii) of the petition that the petitioner was not supplied the inquiry report with a result that prejudice has been caused to the petitioner and the aforesaid

position has not been denied by the respondents in their written statement. He further submitted that it is a settled law that at the time when second show cause notice is to be issued, then inquiry report has to be supplied and especially when prejudice is caused to the delinquent employee. He referred to a judgment passed by a Larger Bench of the Hon'ble Supreme Court in *Managing Director, ECIL, Hyderabad and others versus B. Karunakar and others, 1993 (4) SCC 727* in this regard.

3. On the other hand, learned counsel for the respondent-Bank submitted that so far as the aforesaid factual position is concerned, when the impugned second show cause notice was issued to the petitioner, the inquiry report was not supplied to the petitioner. He further submitted that the petitioner was associated with the inquiry process and now the petitioner has already filed reply to the aforesaid show cause notice and therefore, there was no requirement of supplying of inquiry report to the petitioner along with the second show cause notice.

4. I have heard the learned counsel for the parties.

5. The only short issue involved in the present case is that as per the learned counsel for the petitioner when the impugned second show cause notice was issued to the petitioner proposing punishment of dismissal from service, no inquiry report was supplied to him and it has been so specifically averred by the petitioner in the petition that it has caused prejudice to him. The aforesaid position has not been denied by the respondents in their written statement. The law in this regard is well settled that at the time when the second show cause notice is to be given then inquiry report has to be supplied especially when there is a prejudice being caused.

6. In view of the aforesaid facts and circumstances, the present writ petition is partly allowed. The impugned show cause notice dated 27.07.2020 (Annexure P-3) and the further consequential actions taken by the respondent-Bank are set aside. However, liberty is granted to the respondent-Bank to proceed further from the stage of conclusion of the inquiry strictly in accordance with law. It is made clear that in case the respondent-Bank wishes to proceed again from the conclusion of the inquiry, then the respondent-Bank will not be influenced by the earlier decision taken by the Board of Directors or by the respondent-Bank itself, by which the proposal of dismissal was taken and also resolution dated 17.09.2020 and a fresh decision will be taken by fresh application of mind while issuing show cause notice, if any.

26.02.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No