201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21313-2021
Date of Decision:23.01.2024

BALBIR KAUR .... Petitioner

Versus

PUNJAB AND SIND BANK AND ORS ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. P.S. Khurana, Advocate for the petitioner.

Mr. Ranvir S. Chauhan, Advocate for respondents No.1 to 4.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of charge sheet dated 06.09.2021 (Annexure P-1) whereby petitioner has been called upon to submit her statement of defence with respect to allegations made in the charge sheet.

2. The petitioner joined respondent Bank on 09.10.1996 as a Clerk. The petitioner was promoted to the post of Junior Management Grade Scale-1 in 2010. The petitioner was further promoted to the post of Middle Management Grade Scale-II in 2014. A charge sheet dated 11.01.2018 came to be served upon petitioner. The said charge sheet was issued under regulation 6(1) for Major Penalty in terms of Punjab & Sind Bank Officer Employees' (Discipline and Appeal) Regulation' 1981 (for short 'Regulations 1981'). An Enquiry Officer was appointed who after completing enquiry submitted report dated 20.09.2019. On the basis of report of Enquiry Officer, Disciplinary Authority passed order of punishment dated 31.12.2019 whereby petitioner was reduced to a lower

grade i.e. from MMGS-II to JMGS-I. The petitioner preferred appeal against the said order and Appellate authority vide order dated 04.06.2020 dismissed the same. The petitioner filed mercy petition before Executive Director who issued show cause notice dated 24.11.2020 calling upon the petitioner to show cause as to why quantum of penalty should not be enhanced. The petitioner filed her reply to the show cause notice and Executive Director vide order dated 14.12.2020 ordered to compulsorily retire the petitioner.

3. The petitioner was relieved from services vide order dated 14.12.2020. After retirement of the petitioner, the respondent issued impugned charge sheet dated 06.09.2021 with respect to 7 loans sanctioned to different borrowers. It is apt to notice that all the loans were sanctioned during January' 2016 to November' 2016.

4. Learned counsel for the petitioner submits that as per Regulation 48 of Punjab and Sind Bank (Employees') Pension Regulations, 1995 (for short 'Regulation 1995'). No departmental proceedings can be instituted after 4 years from the date of event, if the employee has retired and proceedings have not been instituted prior to the retirement. The allegation against petitioner is that she wrongly sanctioned loan during January' 2016 to November' 2016, thus, all the events which are foundation of impugned charge sheet took place prior to 4 years from the date of institution of proceedings.

In support of his contention, Mr. Khurana, cited judgment of Delhi High Court in ***Baljit Singh Handa Vs. Punjab & Sind Bank 2021 SCC OnLine Del 653.***

5. Per contra, learned counsel for the respondents submits that

petitioner has sanctioned loan in violation of instructions of the Bank and date of sanctioned of loan cannot be treated as date of event. The sanctioned loan A/c were declared NP at a later stage so date of declaration of any account as NPA is relevant date.

6. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

7. The conceded position emerging from the record is that the petitioner retired from respondent Bank on 15.12.2020. The impugned charge sheet was issued on 06.09.2021. The foundation of impugned charge sheet is loan sanctioned by petitioner to 7 different entities. The loan was sanctioned during January' 2016 to November' 2016. The respondent Bank declared aforesaid loan A/c as NPA on different dates. The details of loan sanctioned and declaration of account as NPA is as below:

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
1.	Sh. Lakhwinder Singh S/o Sh. Mukhtiar Singh, Account No.01881200000434	13.01.2016	7.5	13.19	31.03.2017
	01881200000441 (date of sanction 20.01.2016, amount of sanction 4.0 lac)	20.01.2016	4.0	06.70	31.03.2017

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
2.	Sh. Santosh Kumar S/o Sh. Shyam Lal, Account No.01881200000457	19.02.2016	7.00	12.40	29.12.2016
	01881200000468	09.03.2016	4.5	07.89	31.03.2017

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
3.	Sh. Sukhbir Singh S/o Gurmukh Singh and Smt. Rupinder Kaur W/o Sh. Sukhvir Singh, Account No.01881200000464	03.03.2016	9.93	11.50	29.12.2016

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
4.	Mrs. Indu Kumari, W/o Sh. Vinod Kumar, Vinod Kumar S/o Sh. Jaram Ram Account No.01881200000502	11.05.2016	10.50	17.59	30.06.2017

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
5.	Sh. Sunil Kumar S/o Rajeshwar Dass, Account No.01881200000509	19.05.2016	06.00	10.92	31.03.2017
	01881200000517	01.06.2016	03.00	4.85	31.03.2017

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
6.	Mrs. Urmila Devi W/o Sh. Ram Prashad Gupta, Account No.01881200000562	06.10.2016	9.79	11.86	28.02.2018

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	NPA w.e.f
7.	Sh. Mahesh Singh S/o Sh. Ram Singh, Account No.01881200000557	21.11.2016	09.00	08.90	31.03.2017

8. The entire controversy is centered around interpretation of Regulation 48 of Regulation 1995 which is reproduced as below:

> *"**48. Recovery of Pecuniary loss caused to the Bank***
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> *(1) The competent authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service.*
>
> *Provided that the Board shall be consulted before any final orders are passed.*
>
> *Provided further that where a part of pension is withheld or withdrawn the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these regulations:*
>
> *Provided also that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service.*
>
> *(2) No departmental proceedings, if not instituted while the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution;*
>
> *Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service.*
>
> *(3) Where the Competent Authority orders recovery of*

> *pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of employee;"*

9. Delhi High Court in ***Baljit Singh Handa (Supra)*** had occasion to advert with expression 'event' and period of 4 years limitation contemplated by Rule 48. The Court has held that date of sanction of loan is date of 'event'. The Court has held:

> *"3. The short issue that arises for consideration in all these petitions is whether departmental proceedings can be initiated against an employee who has retired from the services of the respondent bank when it is in respect of an event which took place more than four years before the institution of the proceedings, in view of Punjab and Sind Bank (Employees) Pension Regulations, 1995 ('Pension Regulations', for short).*
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> *Xxx xxx xxx*
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> *69. I am not in agreement with the submission made by Ms. Bajaj for the simple reason that the word 'event' as stipulated in Regulation 48 (2) of Pension Regulations has to be seen from the perspective of the charges framed against the petitioners herein. As noted from the charges reproduced above, the subject matter of the same being that the petitioners prior to their retirement and also preceding the period of more than 4 years from the date of issuance of charge sheets have recommended (the dates of sanctioning being February 13, 2012, March 30, 2012 in respect of W.P. (C) 2846/2017; August 29, 2011, September 29, 2011, March 30, 2012 and June 14, 2012 in respect of W.P. (C) 3910/2017; and August 30, 2011, September 29, 2011, April 2, 2012 and June 14, 2012 in respect of W.P.(C) 3915/2017) sanction of cash credit facilities, enhancement of ODP limit and sanction of BG limit.*

The accounts of the borrowers becoming NPA are not the subject matter of the allegations in their respective charge sheets. Hence, the facilities/accounts sanctioned by the petitioner may have turned NPAs but since the very subject matter of the charges is with regard to sanction given by the petitioners for such loans, the plea is unsustainable. It can also be said that the facilities/accounts turning NPAs can be because of the borrowers having failed to re-pay the loans/credits availed and such a charge surely cannot be imputed against the petitioners. If that be so, the limitation of four years has to be necessarily seen from the date when the sanction was given by these officers/petitioners for various facilities which resulted in the accounts becoming NPA.

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75. That apart, I find that the Staff Accountability Reports dated November 28, 2014 (in W.P.(C) 2846/2017), January 29, 2014, February 4, 2014 and February 10, 2014 (in W.P.(C) 3910/217 and W.P. (C) 3915/2017) indicts the petitioners of their misdemeanor. In other words, the misconduct by the petitioners had come to the notice of the respondent Bank in the year 2014 itself. The respondent Bank could have initiated the disciplinary proceedings immediately thereafter to be well within the limitation of 4 years in terms of Regulation 48(2). Any procedure like issuance of show-cause notice to the petitioners seeking their reply and to follow the procedure to declare the A/cs, NPA surely will not extend the limitation nor such a power is contemplated under the Regulation 48(2). Moreover, it is a settled position of law as held by the Supreme Court in the case of Brajendra Singh Yambem (supra) that if the manner of particular act is prescribed under the Statute then the *same must be done in that manner or not at all.*

10. Before applying afore-cited Regulation and judgment of Delhi High Court to the facts of present case, it would be apposite to look at allegations made in the charge sheet. For the sake of brevity and to avoid repetition, charges with respect to first loan A/c are reproduced as below:

"Statement of Allegations

Ms. Balbir Kaur (B10420)-Ex Officer, while working as Branch In-charge at Nandpur (N0188) Branch under Ludhiana Zone from 07.11.2015 to 21.02.2017, has committed lapses/irregularities in appraising/sanctioning of housing loans, as detail hereunder:

Sr. No.	Name of Borrower & Account No.	Sanction Date	Sanction Amount (In lakh)	Present Outstanding (In lakh)- As on date	If NPA, w.e.f
1.	Sh. Lakhwinder Singh S/o Sh. Mukhtiar Singh, Account No.01881200000434	13.01.2016	7.5	13.19	31.03.2017
	01881200000441 (date of sanction 20.01.2016, amount of sanction 4.0 lac)	20.01.2016	4.0	06.70	31.03.2017

"A. She did not ascertain the genuineness of ITRS, permanent source of Income and repayment capacity of the borrower. Total Income of Sh. Lakhwinder Singh in his ITR for the assessment years 2014-15 and 2013-14 have been shown Rs. 476630/- and Rs. 322170/- but no record have been found with Income Tax Department. Thus, these ITRs are fabricated and fake. The Photocopies of these ITRs were not verified with originals and no proof in conformity with the genuineness of these ITRs was obtained.

B. She did not ensure genuineness of ITRs of the guarantor. Income of Guarantor Mrs. Amarjit Kaur in her ITRs for the assessment years 2014-15 and 2013-14 have been shown Rs. 309840/- and Rs. 284930/- but no record have been found *with Income tax Department. Thus, these ITRs are fabricated and fake. The Photocopies of ITRs were not verified with originals and no proof in conformity with the genuineness of these ITRs was obtained.*

C. She failed to ensure the profession of the borrower. As per Credit Report dated 13.01.2016 and 20.01.2016 and also in computation of income with ITRs for the years 2015-16, 2014-15 and 2013-14 of Lakhwinder Singh, income are shown as Business but no proof of business was taken to ensure the profession.

D. She did not ensure the networth of borrower as no supporting documents were obtained in support of networth Rs. 77.40 lakh and 3 properties mentioned in the credit report dated 13.01.2016 and 20.01.2016 of Sh. Lakhwinder Singh.

E. She did not conduct pre sanction visit/physical verification of the property and BM/Acctt., report was also not prepared.

F. She did not make pre sanction visit to the residence of the borrower to gather market Intelligence and genuineness of the borrower before sanctioning of the loan.

G. She disburse the loan of Rs. 4.00 lakh for Renovation of ground floor and construction of first floor and Second Floor within a short period of 28 (Twenty Eight) days without obtaining progress report on different stages of construction/renovation.

H. She failed to conduct post sanction visit. Further Utilization certificate and House completion is also not on Bank's record.

I. She failed to ensure the end use of Bank's fund as detailed hereunder:-

1. There was cost estimate dated 04.04.2016 of Innovative Engineers to Renovate the Ground floor for Rs. 390950/- and construction of first floor for Rs. 170000/- but as per latest valuation report dated 16.06.2019 of M/s Aakar

> *Architect house is build only upto ground floor. Thus first floor was not constructed.*
>
> *2. As per old valuation report dated 23.11.2015 of Innovative engineers constructed value of ground floor 474512/- and as per new valuation report dated 16.05.2019 of M/s Aakar Architects constructed value of ground floor is Rs. 452250/-. Thus, no renovation of ground floor was also made. As per latest valuation report Present realizable value of the property is only Rs. 896750/- and total outstanding is Rs. 18.16 Lakh. Thus, huge Bank's funds is in stake."*

11. From the perusal of sub-Regulation (2) of Regulation 48, it is quite evident that departmental proceedings against a retired employee cannot be initiated with respect to an 'event' which took place more than 4 years before such institution. The respondent has issued notice with respect to loan sanctioned by petitioner. The loan was sanctioned during January' 2016 to November' 2016. As per respondent, date of sanction of loan is not relevant whereas date of declaration of any account as NPA is relevant. The contention of the respondent cannot be countenanced because offence, if any, takes place on the date of sanctioned of loan. An illegality stands committed on the date of sanctioning of loan. An account may be declared NPA, at any stage, may be after 5 or 10 years from the date of sanction.

The expression 'event' has not been defined in the aforesaid regulation and it needs to be considered in the light of facts and circumstances of each case. In the instant case, there is allegation that petitioner has sanctioned loan in violation of guidelines of the respondent Bank. A conspectus of charge sheet discloses that allegation against petitioner is that she did not follow norms and bank guidelines while sanctioning loan. The date of sanction of loan is apparently date of 'event'. The limitation starts from the date of sanction of loan and not from the date of declaration of an account as NPA. It is further apt to notice that there is allegation with respect to 7 loan accounts and only one out of 7 accounts was declared NPA within 4 years prior to impugned charge sheet.

12. In the wake of aforesaid facts and findings, this Court is of the considered opinion that impugned notice has been issued in violation of limitation period contemplated by Regulation 48(2) of Regulation 1995. The present petition deserves to be allowed and accordingly allowed. The impugned charge sheet dated 06.09.2021 (Annexure P-1) is hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

23.01.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	*Yes/No*