

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. 2024:PHHC:044399-DB

(106)

LPA-1420-2023

Decided on : 03.04.2024

Atma Singh

.....Appellant(s)

Versus

Indian Bank and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr. Sharwan Sehgal, Advocate for the appellant.
(Through Video Conferencing).

G.S. Sandhawalia, Acting Chief Justice (Oral)

Consideration in the present letters patent appeal is sought of the judgment dated 26.07.2023 passed by the Learned Single Judge in **CWP-23258-2014 ‘Atma Singh Vs. Indian Bank and others’**, whereby the writ petition was dismissed by upholding the order of punishment of dismissal from service dated 26.10.2010 (Annexure P-5) and the appellate order dated 03.05.2011 (Annexure P-8) The review application which has been filed in pursuance of the earlier observations made by the Coordinate Bench had also been considered by the reviewing authority and vide order dated 01.03.2014 (Annexure P-12) same has also been upheld.

2. Counsel for the appellant has submitted that he had completed more than 30 years of service and, therefore, dismissal from service was not warranted in the facts and circumstances. Counsel further submits that the earlier observations as such of the Coordinate Bench made in LPA-1392-2013 decided on 08.01.2014 had not been kept in mind by the authorities as

reconsideration of his case regarding imposition of punishment of dismissal from service was not in a proper perspective.

3. We have gone through the paper-book and heard counsel for the appellant who has come present by way of video conferencing.

4. Learned Single Judge noticed the facts and came to the conclusion that the writ petition was not maintainable in view of principles of *res-judicata* and, therefore, held that he was not inclined to interfere in the orders on the issue of quantum of punishment. The argument of the counsel for the Bank was that the principle of *res-judicata* would be applicable. Resultantly, the Court came to the conclusion that the punishment which was awarded is not within the purview of the Court in view of the settled law that the issue of quantum of punishment falls within realm of the authorities and the Court would not have any authority to substitute the opinion of the authorities, though it may find that the punishment is on the higher side. It was, accordingly, found that exercise had already been done and, therefore, interference was declined.

5. We have gone through the subsequent order dated 01.03.2014 (Annexure P-12) passed by the General Manager, Reviewing Authority, whereby the background of the appellant has been considered, which reads as under:-

“On an independent consideration of the facts of the case, I observe the following:

There have been several instances of misappropriation and embezzlement committed by the review petitioner, although the individual amount of such cases may be small.

Such cases of misappropriation include cases of embezzlement of government funds. A portion of the old age pension amount which was meant for refund to government was swindled by the review petitioner.

Long pending Demand Drafts and Bankers Payment Orders were clandestinely cancelled and amount was misappropriated by him.

Bank's expenditure heads were illegitimately debited by him and funds were embezzled.

Charges recovered from the customers, which should have rightly gone to the income of the Bank, were misappropriated.

Locker rent charged from a customer was misappropriated by him, instead of taking the amount to the Bank's income account.

Interest accrued and payable to a customer in his SB account was embezzled by him.

Tax deducted and payable to the Government was embezzled by him.

He used the account of one Mr. Raghunath Rai as conduit, to channel most of such embezzlements, exposing the said Raghunath Rai to probable action, in the process.

All the above actions of the review petitioner demonstrate his depravity of mind and utter lack of integrity. It is deplorable that the review petitioner resorted to such actions, despite being well paid as an officer of the Bank. The proved charges clearly establish that the review petitioner had defaulted in the level of integrity expected of him as an officer of a public sector bank, which is a repository of public funds.

My Order:

For awarding the punishment of dismissal on a public sector bank employee, it is the loss of confidence which is the primary factor and not the amount of money misappropriated. In such cases of embezzlement and

misappropriation, sympathy or generosity cannot be a factor, which is impermissible in law.

I have carefully considered the circumstances of the present case and hold that there was sufficient ground for the Disciplinary Authority for losing confidence and faith in the review petitioner. I therefore hold that the punishment of Dismissal imposed on him by the Disciplinary Authority and confirmed by the Appellate Authority, is well justified. In the result, dismiss the review petition of the Mr Atma Singh, the review petitioner, as one without merits. Consequently, there will be no modification to the penalty order dated 26.10.2010 issued by the Disciplinary Authority and the order dated 03.05.2011 issued by the Appellate Authority confirming the penalty imposed.”

6. A perusal of the findings as recorded by the General Manager would go on to show that apparently the employer has lost the confidence in the appellant, especially keeping in mind the fact that he is a bank employee. The loss of confidence and the responsibility level of a bank official is much more and the Constitutional Courts are not to interfere with the dismissal order, as per settled law. The Apex Court in the case of **Lalit Popli Vs. Canara Bank and others, (2003) 3 SCC 583** has held that the Writ Court does not act an appellate Court and in the writ jurisdiction scope of judicial review is very limited only to correct errors of law or procedural errors leading to manifest injustice or violation of principle of natural justice not for adjudication on merits. Reliance can also be placed upon the judgment of the Apex Court passed in **Chief Executive Officer, Krishna District Cooperative Central Bank Ltd. and another Vs. K. Hanumantha Rao and another, (2017) 2 SCC 528**, wherein the dismissal order of the Bank employee had been substituted by stoppage of two increments for a period of

two years by the High Court. The same was reversed by holding that once there was lack of supervision leading to fraud in number of accounts interference was not justified. Relevant portion of the said judgment reads as under:-

8.....“Even otherwise, we do not find it to be so having regard to the fact that respondent No.1 did not perform his duties with due diligence and his negligence in performing the duties as a Supervisor has led to serious frauds in number of accounts by the subordinate staff. It was, therefore, for the disciplinary authority to consider as to whether respondent No.1 was fit to continue in the post of Supervisor.

(iii) The impugned order is also faulted for the reason that it is not the function of the High Court to impose a particular punishment even in those cases where it was found that penalty awarded by the employer is shockingly disproportionate. In such a case, the matter could, at the best, be remanded to the disciplinary authority for imposition of lesser punishment leaving it to such authority to consider as to which lesser penalty needs to be inflicted upon the delinquent employee. No doubt, the administrative authority has to exercise its powers reasonably. However, the doctrine that powers must be exercised reasonably has to be reconciled with the doctrine that the Court must not usurp the discretion of the public authority. The Court must strive to apply an objective standard which leaves to the deciding authority the full range of choice. In [Lucknow Kshetriya Gramin Bank & Anr. v. Rajendra Singh](#)[3], this principle is formulated in the following manner:

“13. Indubitably, the well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to a delinquent employee keeping in view the seriousness of the misconduct committed by such an employee. Courts cannot assume and usurp the function of the disciplinary authority. In [Apparel Export Promotion](#)

[Council v. A.K. Chopra](#)[(1999) 1 SCC 759 : 1999 SCC (L&S) 405] this principle was explained in the following manner: (SCC p. 773, para 22)

“22...The High Court in our opinion fell in error in interfering with the punishment, which could be lawfully imposed by the departmental authorities on the respondent for his proven misconduct. ... The High Court should not have substituted its own discretion for that of the authority. What punishment was required to be imposed, in the facts and circumstances of the case, was a matter which fell exclusively within the jurisdiction of the competent authority and did not warrant any interference by the High Court. The entire approach of the High Court has been faulty. The impugned order of the High Court cannot be sustained on this ground alone.”

14. Yet again, in [State of Meghalaya v. Mecken Singh N. Marak](#) [(2008) 7 SCC 580 : (2008) 2 SCC (L&S) 431], this Court reiterated the law by stating: (SCC pp. 584-85, paras 14 and 17)

“14. In the matter of imposition of sentence, the scope of 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.

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17. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The High Court in this case, has not only interfered with the punishment imposed by the disciplinary authority in a routine manner but overstepped its jurisdiction by directing the appellate authority to impose any other punishment short of removal. By fettering the discretion of the appellate authority to impose appropriate punishment for serious misconducts committed by the respondent, the High Court totally misdirected itself while exercising jurisdiction under [Article 226](#). Judged in this background, the conclusion of the Division Bench of the High Court cannot be regarded as proper at all. The High Court has interfered with the punishment imposed by the competent authority in a casual manner and, therefore, the appeal will have to be accepted.”

9. In any case, insofar as the instant matter is concerned, since we find that the punishment imposed was not shockingly disproportionate, no question of remitting the case to the disciplinary authority arises. We, thus, allow this appeal and set aside the impugned judgment of the Division Bench of the High Court.”

7. Resultantly, we are of the considered opinion that once the track record of the writ petitioner has been again reviewed by the authority and a

finding has been recorded that there was consistent and persistent embezzlement on minor levels, the question of interfering in the punishment would not be tenable at all.

8. In such circumstances, we are of the considered opinion that the findings recorded by the Learned Single Judge do not suffer from any infirmity and in view of the settled law no case is made out for interference. Accordingly, there is no merit in the present appeal and same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

03.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No