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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8951-2018 (O&M)

Date of Decision:06.03.2024

Tajender Singh

....Petitioner(s)

Versus

Sarva Haryana Gramin Bank and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Randhir S. Hooda, Advocate for
Mr. Parveen Gupta, Advocate, for the petitioner.

Mr. Bhushan Bhatia, 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 order dated 20.08.2015 (Annexure P-3).

2. The short facts involved in the present case are that the petitioner was working as a Branch Manager in the respondent-Bank and he was charge-sheeted on the ground of remaining absent from the bank for different periods and especially from 03.05.2012 to 31.01.2013 at Branch Office, Dhannora Jattan and the second allegation was that while he was unauthorisedly absent, he retained the keys of the bank with him and did not return to the bank. A regular departmental enquiry was conducted against him and he was inflicted with a punishment of dismissal from service

which shall ordinarily be a disqualification for future employment vide Annexure P-1 dated 16.10.2014. Thereafter, the petitioner filed an appeal before the Appellate Authority i.e. the Chairman and vide Annexure P-3, the Appellate Authority however after considering the totality and circumstances of the fact that the petitioner was in hospital for some time modified the aforesaid order of punishment from dismissal from service which shall ordinarily be a disqualification for future employment to major penalty of reduction to a lower grade i.e. from Officer Middle Management (Scale-II) to Officer Junior Management (Scale-I). A detailed order was passed by the Appellate Authority as well. In the present petition, the order by which the petitioner was granted major penalty of reduction to a lower grade i.e. from Officer Middle Management (Scale-II) to Officer Junior Management (Scale-I) has been challenged by the petitioner.

3. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner was a cardiac patient and he had undergone various treatments from the hospital and because of the aforesaid treatments, he was repeatedly admitted in the hospital and he had rather made an application for leave on which no action was taken by the respondent-Bank and repeatedly he was told to submit a certificate from the CMO of the concerned hospital and since the petitioner could not give the certificate of the CMO which was otherwise not mandatory under any provision of law, the allegations were that the petitioner had remained on unauthorised leave. He submitted that so far as the aforesaid allegation against the petitioner is concerned that the petitioner was absent from duty was not voluntarily but because of compelling circumstances because he was admitted in hospital and the mere fact that he had given the

prescriptions and the other documents of the relevant doctor alongwith the application form and not of the CMO would not mean that his leave could not have been sanctioned and, therefore, the allegations against the petitioner were unfounded and on this ground, the punishment order cannot sustain. He further submitted that so far as the second allegation against the petitioner that during the time when he was absent from duty and he was admitted in the hospital, he did not submit the keys of the bank to the bank is concerned, in fact he had handed over the keys to the bank but the Enquiry Officer had come to the conclusion that the petitioner did not hand over the keys back to the bank. He submitted that in view of the aforesaid facts and circumstances both the orders of punishment Annexure P-1 and order of the Appellate Authority Annexure P-3 are liable to be set aside and quashed.

4. On the other hand, Mr. Bhushan Bhatia, learned counsel appearing on behalf of the respondents submitted that a detailed enquiry was conducted and it was found that the petitioner did not submit the Medical Certificate of the concerned CMO well in time and even if the petitioner was admitted in the hospital for his treatment, he did not follow the advice of the concerned authority to submit the relevant document pertaining to the certificate which was so required by the officer of the bank. He submitted that so far as the second allegation against the petitioner is concerned, in the detailed enquiry it has been proved on record that the petitioner did not hand over the keys to the bank while he was on leave or he was absent from the bank. He submitted that as per the allegations, there was a long spell of absence i.e. from 03.05.2012 to 31.01.2013 and he was the Manager of the Bank and when he did not submit the keys of the bank, even

if he was admitted in hospital it has caused prejudice to the bank. He submitted that even otherwise also the punishing authority has inflicted a punishment of dismissal from service which shall ordinarily be a disqualification for future employment and thereafter, the Appellate Authority has considered the fact that he was having a medical treatment still took a lenient view and reduced, modified, relaxed his punishment from dismissal from service which shall ordinarily be a disqualification for future employment to major penalty of reduction to a lower grade i.e. from Officer Middle Management (Scale-II) to Officer Junior Management (Scale-I). He submitted that now the punishment which has been inflicted upon the petitioner by way of an order passed by the Appellate Authority, it is a minimum of the major punishment provided under the **Haryana Gramin Bank (Officers & Employees), Service regulations, 2010**. He submitted that since now even a lenient view has been taken against the petitioner and the charges against the petitioner already stand proved by way of detailed enquiry. There is no perversity and illegality in the orders which have been passed by the punishing authority or by the Appellate Authority.

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

6. The main issue involved in the present case is as to whether the order of inflicting a punishment from dismissal from service which shall ordinarily be a disqualification for future employment to major penalty of reduction to a lower grade i.e. from Officer Middle Management (Scale-II) to Officer Junior Management (Scale-I) can be vitiated on the ground that the petitioner had returned the keys to the bank. It is a specific case of the petitioner that he had returned the keys to the bank, whereas in the enquiry as well as before the Appellate Authority it was proved by way of leading

evidence that he did return the keys, even when he was admitted in the hospital. Even if assuming the argument raised by the learned counsel for the petitioner is taken to be true pertaining to the fact that he was in a medical emergency or he was having his cardiac treatment, he was not supposed to supply all the documents especially pertaining to the certificate of the CMO is taken to be true, even then so far as the second allegation against the petitioner pertaining to the non-returning of the keys is concerned, there are categorical findings by the Enquiry Officer and by the Appellate Authority. This Court would not re-appreciate the evidence and to come to a different conclusion. Even otherwise also, a serious punishment was inflicted upon the petitioner by the punishing authority from dismissal from service which shall ordinarily be a disqualification for future employment and thereafter, a lenient view has been taken by the Appellate Authority by which the order was modified and now a punishment of major penalty of reduction to a lower grade i.e. from Officer Middle Management (Scale-II) to Officer Junior Management (Scale-I) has been inflicted upon the petitioner and as per learned counsel for the respondents, the aforesaid punishment is a minimum of the major punishment as provided under the regulations.

7. In view of the aforesaid facts and circumstances, this Court does not find any merit in the present petition and the same is hereby dismissed.

06.03.2024*rakesh***(JASGURPREET SINGH PURI)****JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No