



201

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15888-2017 (O&M)
Date of decision: 19.10.2024

KUMAR MUKESH

...Petitioner(s)

VERSUS

SARVA HARYANA GRAMIN BANK AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

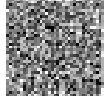
Present:- Mr. Sardavinder Goyal, Advocate for the petitioner.

Mr. Bhushan Bhatia, Advocate for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

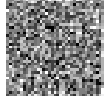
1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature or *certiorari* for quashing the supplementary charge-sheet dated 07.12.2016 (Annexure P-8) and all further proceedings/actions arising therefrom, including the letters dated 20.01.2017 (Annexure P-12), dated 14.02.2017 (Annexure P-13), dated 01.06.2017 (Annexure P-16) and 30.06.2017 (Annexure P-18) with a further prayer to direct the respondent-Bank to conclude the pending disciplinary enquiry in the first charge-sheet dated 26.06.2014 (Annexure P-2) and to promote the petitioner as Scale-III Officer by opening the sealed result of the interview dated 11.09.2015.

2. The brief facts of the present case are that the petitioner was working as a Scale-II Officer in the respondent-Bank and while he was so



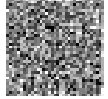
serving, he was issued a charge-sheet dated 26.06.2014 (Annexure P-2) by the respondent-Bank with the allegation that one Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind made a complaint dated 21.02.2014 to the Regional Manager of the respondent-Bank that he had applied for the allotment of plot and had paid the requisite fee as well and was granted registration number but the petitioner is not processing his case for plot allotment. After the issuance of the aforesaid charge-sheet, the petitioner filed a reply to the same and in the meantime, the promotion process started for further promotion to the post of Scale-III Officer and the petitioner fell in the zone of consideration. Vide circular dated 11.08.2015 (Annexure P-5), the process was initiated and in the process of promotion, the petitioner cleared the written test and thereafter, he was called for the interview as well, which was held on 11.09.2015. However, the result of the petitioner for promotion to the post of Scale-III Officer was kept in a sealed cover in view of the fact that the aforesaid charge-sheet was pending against him.

3. In view of the result of the petitioner being kept in a sealed cover, he was not promoted to the aforesaid post of Scale-III Officer, whereas other officers who were considered by the respondent-Bank were promoted to the aforesaid post and thereafter, the respondent-Bank issued a supplementary charge-sheet to the petitioner, which was issued more than one year after the interview was conducted i.e. on 07.12.2016 vide Annexure P-8 by stating that it is in furtherance of the earlier charge-sheet dated 26.06.2014 (Annexure P-2), which was already served upon the petitioner and in the second charge-sheet dated 07.12.2016, another set of 12 charges were levelled against the petitioner.



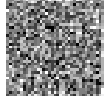
The aforesaid 12 charges were pertaining to the allegation that when the petitioner was posted as a Manager at Branch Office, Kaithal from 05.11.2011 to 15.07.2014, he wrongfully sanctioned various loans to various people and therefore, the supplementary charge-sheet was issued against him. Thereafter, since the second charge-sheet (Annexure P-8) was in the nature of supplementary charge-sheet, the same Enquiry Officer who was earlier enquiring into the first charge-sheet was appointed as Enquiry Officer in the supplementary charge-sheet as well and in this way, both the aforesaid charge-sheets were clubbed together and a common enquiry was conducted against the petitioner.

4. During the pendency of the present writ petition, the enquiry was completed but the report was not submitted to the disciplinary authority and no further process was undertaken in view of the interim order passed by this Court in the present case on 18.12.2017, wherein it was directed that in the meantime, no action will be taken on the enquiry report by the respondents and in this way, the case is still at the stage of submission of the enquiry report by the Enquiry Officer pertaining to both the aforesaid charge-sheets. The present writ petition has been filed for quashing the supplementary charge-sheet (Annexure P-8) and also the letter (Annexure P-12), whereby the request made by the petitioner for separating both the enquiries was declined. A further prayer is also made in the present writ petition seeking a direction to the respondents to conclude the pending disciplinary enquiry in the first charge-sheet dated 26.06.2014 (Annexure P-2) and also to promote the petitioner to the post of Scale-III Officer.

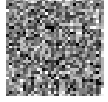


5. Learned counsel for the petitioner before making submissions on the merits, at the outset submitted that he wishes to confine the prayer in the present writ petition only to challenge Annexure P-12 dated 20.01.2017, vide which his request for separating both the enquiries in both the aforesaid charge-sheets was declined because of erroneous and perverse reason. He further submitted that he does not wish to press the prayer for quashing the supplementary charge-sheet (Annexure P-8) at this stage because he will be satisfied in case the aforesaid supplementary charge-sheet is separated from the initial charge-sheet (Annexure P-2) and separate process is initiated in accordance with law. He further submitted that at this stage, he also does not wish to press the prayer for seeking a direction to promote the petitioner to the aforesaid post of Scale-III Officer because in case both the enquiries are separated and separate orders are passed by the disciplinary authority, then the result of the petitioner which is kept in a sealed cover has to be opened in accordance with law.

6. Learned counsel for the petitioner while arguing on the limited aspect of the present case i.e. his request for separation of both the enquiries was wrongly rejected, submitted that it is a case where the petitioner was working as a Branch Manager and various applications were received by him during his tenure pertaining to allotment of plots. So far as the first charge-sheet dated 26.06.2014 (Annexure P-2) is concerned, the allegation was on the basis of one complaint made by Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind that the petitioner is not processing his application, whereas the petitioner had clarified to the respondent-Bank that the aforesaid

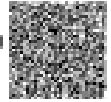


Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind was an applicant but there was one other Sandeep as well, who is also a son of Shamsheer Singh but resident of Sisai Kaliravan and he was the person who also applied and was declared successful and he was to be allotted the plot and in this way, the allegations which have been made by aforesaid Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind were unfounded because he was never declared as successful and therefore, his allegation that his application has not been processed by the petitioner is based only on a misconception as the name of the person to whom the plot was allotted was the same and the father's name was also the same and therefore, his application was not processed by the petitioner and in fact the aforesaid Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind, who made the aforesaid complaint rather apprised the respondent-Bank by making an application vide Annexure P-3 (Colly.) alongwith an affidavit duly attested by Notary dated 12.06.2014 by explaining his position that he presented his claim on account of misunderstanding caused due to matching of his and his father's name and now he withdraws his claim and his objection which he has filed with regard to his claim should be rejected and he has got no claim on the 10% amount deposited with respect to the plot. He further submitted that despite the aforesaid affidavit and the application being made to the Branch Manager of the respondent-Bank vide Annexure P-3 (Colly.) as aforesaid, the respondent-Bank by ignoring the aforesaid application for withdrawal of the complaint by the aforesaid Sandeep S/o Shamsheer Singh R/o Village and Post Office Julani, District Jind, deliberately issued a charge-sheet (Annexure P-2)



against the petitioner after few days i.e. on 26.06.2014 on the allegations made by aforesaid Sandeep S/o Shamsher Singh R/o Village and Post Office Julani, District Jind, which he had already withdrawn.

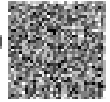
7. Learned counsel for the petitioner submitted that in fact there was a professional rivalry amongst the officers in the respondent-Bank and the other officers did not want the petitioner to get promoted because they knew that the promotion process was to start soon. He further submitted that the petitioner was the General Secretary of the State Committee of Officers' Association of the respondent-Bank and that was the reason as to why the aforesaid charge-sheet was issued against him despite the fact that the complainant himself had withdrawn the complaint. He further submitted that after issuance of the aforesaid charge-sheet on 26.06.2014 (Annexure P-2), the respondent-Bank started the process of promotion to the post of Scale-III Officer and that process started vide Annexure P-5 dated 11.08.2015 and the petitioner was interviewed on 11.09.2015 but his result was kept in a sealed cover because of the pendency of the aforesaid charge-sheet (Annexure P-2). He further submitted that even if the result of the petitioner was kept in a sealed cover, the charge-sheet ought to have been further processed and concluded on its own merits and in accordance with law, if at all, to be concluded so that after the conclusion of the charge-sheet and the order of the disciplinary authority, if any, the fate of the petitioner ought to have been decided after opening the sealed cover but in order to circumvent the rights of the petitioner, the respondent-Bank adopted a novel method of issuing a supplementary charge-sheet to the petitioner vide Annexure P-8 on 07.12.2016 i.e. more than one year after the interview was conducted, in



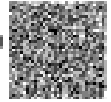
which it was specifically stated that it is a supplementary charge-sheet in furtherance of the earlier charge-sheet. He further submitted that the charges in the supplementary charge-sheet were totally different and unconnected with the earlier charges because the 12 charges which were there in Annexure P-8 were pertaining to the allegation that the petitioner has wrongly sanctioned loans to various persons which had got no connection with the earlier charge-sheet and therefore, instead of issuing a separate charge-sheet to the petitioner, the aforesaid supplementary charge-sheet was issued and thereafter, by the order of the General Manager of the respondent-Bank, the charge-sheets were clubbed together and a common enquiry was initiated.

8. Learned counsel for the petitioner submitted that the effect of the aforesaid issuance of supplementary charge-sheet was that the result of the petitioner which was kept in a sealed cover that is still being kept till date and the earlier charge-sheet could have culminated either in the order of punishment or in the order of exoneration but since the respondent-Bank fully knew that the aforesaid complaint itself has been withdrawn and the petitioner was likely to be exonerated, he had to be promoted because there was no other case against the petitioner except for first charge-sheet dated 26.06.2014 (Annexure P-2). However, since there were 12 charges against the petitioner in the supplementary charge-sheet (Annexure P-8), the same were wrongly clubbed together so that the petitioner is deprived of his benefit of promotion to the further post of Scale-III Officer.

9. Learned counsel for the petitioner further submitted that when the petitioner made a request to the respondent-Bank for dealing with both the



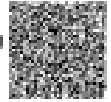
charge-sheets issued against him separately vide Annexure P-11, the same was rejected by the respondent-Bank vide Annexure P-12 on erroneous and perverse ground that it is for the sake of natural justice, which on the face of it is absolutely without any basis because there is no question of violation of principles of natural justice. He further submitted that the respondent-Bank deliberately in order to circumvent the rights of the petitioner for being considered for promotion issued a supplementary charge-sheet and the same Enquiry Officer, who enquired in the first charge-sheet was appointed as Enquiry Officer for the supplementary charge-sheet as well and in this way, joint enquiry commenced. He further submitted that on the date when the DPC was held, only first charge-sheet was pending against the petitioner and therefore, in view of the law laid down by Hon'ble Supreme Court only aforesaid first charge-sheet was to be considered and not any other charge-sheet which was issued to the petitioner subsequent to conducting of the DPC and the petitioner is bound by the result of the earlier charge-sheet and not by that of the supplementary charge-sheet issued against him. He further submitted that the prayer of the petitioner is that both the aforesaid charge-sheets may be separated and although the enquiry proceedings have been completed but a report has not been submitted to the disciplinary authority and a direction may be issued that after separating both the enquiries, the matter be sent to the fresh Enquiry Officer at the defence evidence stage. He further submitted that when the matter was fixed for defence evidence stage, no opportunity was granted to the petitioner for leading defence evidence and the Enquiry Officer in a hurried



manner concluded the enquiry, which is evident from the order passed by this Court on 18.12.2017, wherein interim order was passed.

10. Learned counsel for the petitioner further on the issue of law submitted that the respondent-Bank could not have issued any supplementary charge-sheet to the petitioner because there is no provision of law under the Sarva Haryana Gramin Bank (Officers & Employees) Service Regulations, 2010 (Annexure P-1) and since there is no provision of law for issuance of any supplementary charge-sheet, there was no power with the General Manager of the respondent-Bank to have issued supplementary charge-sheet (Annexure P-8) against the petitioner and to have directed to conduct a joint enquiry and it was an exercise without the authority of law. He further submitted that not only this, the allegations in the first charge-sheet and the allegations in the supplementary charge-sheet are unconnected with each other.

11. On the other hand, learned counsel for the respondent-Bank submitted that the reason as to why the supplementary charge-sheet (Annexure P-8) was issued to the petitioner is that he was posted as a Branch Manager of the respondent-Bank and during his tenure, schemes were floated for grant of loans for allotment of plots. He further submitted that the first charge-sheet (Annexure P-2) was pertaining to the same scheme and the supplementary charge-sheet was also pertaining to the same scheme although the period may be spread over 3 years. He further submitted that the aforesaid was the reason as to why supplementary charge-sheet was issued and the same was issued not to jeopardize the career of the petitioner. He further submitted that now once the enquiry is complete, the report with regard to the same could not be submitted

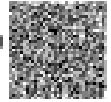


to the disciplinary authority because of an interim order passed by this Court and in case now the disciplinary authority passes an order and in case the petitioner is exonerated, then further process of opening the seal cover etc. will be undertaken in accordance with law.

12. On the issue of connectivity of the charges in the first charge-sheet (Annexure P-2) and the charges in the supplementary charge-sheet (Annexure P-8), learned counsel for the respondent-Bank referred to last para of the statement of allegations of the first charge-sheet (Annexure P-2), wherein it was so stated that in allotment of the plot, interpolation has been made by fabricating the loan documents and other related documents by the petitioner to show the applicant as Sh. Sandeep S/o Sh. Shamsher Singh R/o Village and Post Office, Sisai Kaliravan in connivance with Sh. Pradeep (Property Dealer) with ulterior motive for unauthorized and concomitant gain and therefore, it cannot be said that the allegations in the first-charge sheet were unconnected with the allegations in the supplementary charge-sheet. He further submitted that the earlier Enquiry Officer has retired and therefore, fresh Enquiry Officer is required to be appointed.

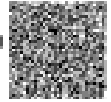
13. I have heard the learned counsels for the parties.

14. Learned counsel for the petitioner has confined the scope of the present writ petition only to the extent of challenge to letter dated 20.01.2017 (Annexure P-12) by stating that his grievance as of now is that both the enquiries be separated and separate Enquiry Officers may be directed to deal with both the enquiries in accordance with law because the charges in the first charge-sheet and the charges in the supplementary charge-sheet are distinct and



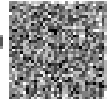
unconnected. A perusal of the first charge-sheet (Annexure P-2) would show that there was only one allegation on the basis of a complaint made by one Sandeep S/o Shamsher Singh R/o Village and Post Office Julani, District Jind that his application for allotment of plot has not been processed by the petitioner and he is delaying the matter. However, vide Annexure P-3 (Colly.), the petitioner has attached a letter issued by Sandeep S/o Shamsher Singh R/o Village and Post Office Julani, District Jind to the Branch Manager alongwith an affidavit by saying that he withdraws his complaint because he had a misconception.

15. As per the learned counsel for the petitioner, there were two applicants with the same name and even the father's name was also same i.e. Sandeep S/o Shamsher Singh. The complainant was Sandeep S/o Shamsher Singh R/o Village and Post Office Julani, District Jind and he was unsuccessful in the allotment of plot, whereas one another Sandeep S/o Shamsher Singh R/o Sisai, Kaliravan was the person who was declared successful in allotment of plot and his application was to be processed. When the complainant i.e. Sandeep S/o Shamsher Singh R/o Village and Post Office Julani, District Jind came to know that his application could not be processed by the petitioner because he was never declared as successful, he withdrew his complaint as aforesaid. However after few days, charge-sheet (Annexure P-2) was issued to the petitioner. A perusal of the same would show that the entire statement of allegations pertains to the aforesaid allegation only. A reference was made by the learned counsel for the respondent-Bank in the last paragraph of the statement of allegations as aforesaid to justify that the petitioner had also made



other irregularities. However, a perusal of the aforesaid last paragraph would very clearly show that it does not enlarge the scope of the charges against the petitioner in the first charge-sheet (Annexure P-2) because of the simple language used in the last paragraph, which says that in the matter of allotment of plot, interpolation has been made by fabricating the loan documents and other related documents by the petitioner to show the applicant as Sh. Sandeep S/o Sh. Shamsheer Singh R/o Village and Post Office, Sisai Kaliravan in connivance with Sh. Pradeep (Property Dealer) with ulterior motive for unauthorized and concomitant gain and therefore, it is very clear that even the last paragraph which is so referred to by the learned counsel for the respondent-Bank does not relate at all to the allegations in the supplementary charge-sheet (Annexure P-8).

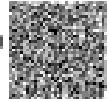
16. On the other hand, a perusal of the supplementary charge-sheet (Annexure P-8) would very clearly show that in the statement of allegations, there are 12 charges against the petitioner and all the allegations are pertaining to wrongful disbursement of loans. A perusal of the same would also show that it has got no connection with the allegations contained in the first charge-sheet (Annexure P-2). The mere fact that the allegations were pertaining to the same scheme or different schemes during the period the petitioner was working as a Branch Manager would not mean that both the charges are connected with each other. The effect of clubbing the charge-sheets and issuance of supplementary charge-sheet, however, had its own effects upon the rights of the petitioner. Two different aspects are to be considered for the purpose of adjudicating as to



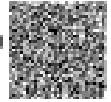
whether the respondent-Bank could have issued supplementary charge-sheet to the petitioner and could have clubbed both the enquiries or not.

17. Firstly, there is no provision under any law governing the services of the employees of the Bank in pursuance of the Sarva Haryana Gramin Bank (Officers & Employees) Service Regulations, 2010 (Annexure P-1) for issuing a supplementary charge-sheet. A pointed query was raised to the learned counsel for the respondent-Bank as to whether there was any provision under any law or under the Service Rules vide which there is power with any authority to issue any supplementary charge-sheet, to which he submitted very candidly that there is no such power vested under any Rule or Instruction. Another query was raised to the learned counsel for the respondent-Bank as to whether there is any power to club two different enquiries under the same Enquiry Officer or not, to which he also submitted that there is no such power vested in any authority. Therefore, it is clear that in the absence of any power to issue a supplementary charge-sheet or to club the enquiries, the aforesaid action of the respondent-Bank was perverse and illegal.

18. Secondly, apart from absence of any power to issue a supplementary charge-sheet or clubbing of both the enquiries, on facts, it is very clear that the allegations in the first charge-sheet and allegations in the supplementary charge-sheet are distinct and unconnected with each other. Therefore, on this ground as well, the aforesaid supplementary charge-sheet (Annexure P-8) could not have been issued to the petitioner and only separate charge-sheets may have been issued to the petitioner in accordance with law on the basis of fresh charges, if any.



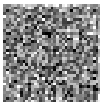
19. The effect of the entire exercise being undertaken by the respondent-Bank in issuance of supplementary charge-sheet had an adverse effect on the rights of the petitioner for being considered for promotion. In this regard, sequence wise dates would be of much importance. The first charge-sheet (Annexure P-2) is dated 26.06.2014 and during the pendency of the first charge-sheet, the promotion process to the post of Scale-III Officer started vide Annexure P-5 on 11.08.2015 and the petitioner was interviewed on 11.09.2015, wherein his result was kept in a sealed cover because of the pendency of the first charge-sheet (Annexure P-2). After about more than one year i.e. on 07.12.2016 vide Annexure P-8, supplementary charge-sheet was issued to the petitioner with the result that the charges which were contained in the supplementary charge-sheet were thereafter clubbed with the earlier charge-sheet and joint enquiry started. In the absence of any specific provision enabling the respondent-Bank to have issued a supplementary charge-sheet to the petitioner, the same could not have been done. Had it been a case where the respondent-Bank issued second different and separate charge-sheet which was issued after one year of the interview of the petitioner, then it would not have directly affected the right of the petitioner for being considered for promotion because at the time when he was interviewed there was only one charge-sheet against the petitioner i.e. Annexure P-2 and his result was kept in a sealed cover and this Court is of the considered view that the aforesaid charge-sheet ought to have been culminated and put to its logical end independently and the result of the same would have effect upon his right to be considered for promotion. When the supplementary charge-sheet was issued to the petitioner after about



more than one year of his interview, then it has prejudicially affected his rights for being considered for promotion because the supplementary charge-sheet was not issued at the time when his result was kept in a sealed cover i.e. at the time of his interview and it happened only after about one year and three months. This action of the respondent-Bank is totally illegal, unwarranted and without the authority of law.

20. Another important aspect is also worth-noting. A perusal of impugned order Annexure P-12 would show that a reason as given for clubbing two charge-sheets was for observance of principles of natural justice. This Court is of the view that clubbing of charge-sheets cannot by any stretch of imagination mean observance of principles of natural justice. It appears that the disciplinary authority lacks basic knowledge and understanding of meaning of principles of natural justice.

21. During the course of arguments, the learned counsel for the petitioner also stated that although the joint enquiry has been completed but the petitioner was not given adequate opportunity of hearing to lead his defence evidence. He has stated that the case was fixed for defence evidence on 07.11.2017 but the witnesses, who were the Branch Managers were posted in different regions. A request was made by the petitioner in this regard because that period was the recovery season which was on peak but the Enquiry Officer adjourned the enquiry only for next day i.e. for 08.11.2017. The petitioner had earlier applied for leave to go to Madurai, which already stood sanctioned from 17.11.2017 to 23.11.2017 and because of the aforesaid enquiry, he rather sought preponement of the leave from 16.11.2017 but the same was not sanctioned and



the Enquiry Officer concluded the proceedings on 16.11.2017. Therefore, this Court is of the considered view that it appears that the Enquiry Officer has unnecessarily hurried in concluding the enquiry and the result of the same was that the right of being heard and the basic principles of natural justice could not be complied with as the petitioner was not given any adequate opportunity to defend his case before the Enquiry Officer. It has been specifically so stated by the learned counsel for the petitioner that not even a single defence witness has been examined because of the aforesaid hurried action of the Enquiry Officer.

22. In view of the aforesaid facts and circumstances of the present case, the present writ petition is partly allowed. The letter dated 20.01.2017 (Annexure P-12) is hereby set aside. The respondent-Bank is directed to split both the enquiries i.e. Annexure P-2 and Annexure P-8 and to start the enquiries at the defence evidence stage. The Enquiry Officer who will now be appointed because the earlier Enquiry Officer has retired will furnish separate enquiry reports to the competent authorities and thereafter, the same will be taken to its logical end. Thereafter, all the consequential processes will follow in this regard. Both the enquiries which are to be conducted separately shall be concluded within a period of six months from today.

(JASGURPREET SINGH PURI)
JUDGE

19.10.2024
Chetan Thakur

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