



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116

CWP-14504-1999 (O&M)
Date of decision: 10.12.2025

Garish Kumar (deceased) through his LR's

....Petitioner

Versus

Financial Commissioner (Cooperation) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dixit Garg, Advocate
for the petitioner.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Tushar Sharma, Advocate
for Mr. Shourya Arora, Advocate
for respondent No.3/Bank.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the impugned punishment order dated 02.03.1987 (Annexure P-3), appellate order dated 11.12.1992 (Annexure P-11), registrar's order dated 18.06.1997 (Annexure P-13) and revisional order dated 13.07.1998 (Annexure P-15). Further a writ of *mandamus* has been sought, directing the respondents to pay all the arrears of pay along with interest @ 18% and other consequential relief to the petitioner.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was employed in respondent No.3/Bank, which is a



registered Cooperative Society and the service of its employees were governed by Punjab State Cooperative Land Mortgage Bank Service (Common Cadre) Rules, 1978 (in short 'the Rules of 1978'). The petitioner was placed under suspension on 29.05.1981 and charge-sheeted on 18.06.1981 with the allegations of embezzlement of money paid by the customers of the Bank towards loan installments. A show-cause notice was issued on 04.07.1983 proposing the imposition of major punishment of dismissal, to which he replied in detail pointing out infirmities in the enquiry report. After considering the reply of the petitioner, the punishment of stoppage of 03 annual increments with immediate effect was awarded and it was decided that suspension period would be counted towards the duty period. Thereafter, the Appellate Authority set-aside the punishment order and remanded the case back granting the respondent/Bank liberty to hold a fresh enquiry in accordance with Rules. Thereafter, a *de novo* enquiry was conducted and the petitioner was held guilty and punishment of stoppage of 05 annual increments was awarded to him as discernible from Annexure P-9. The Appellate Authority vide order dated 11.12.1992 partly accepted the appeal of the petitioner and reduced the punishment of stoppage of 05 annual increments with cumulative effect to stoppage of 02 annual increments without cumulative effect, as discernible from Annexure P-10. The Registrar/respondent No.2, thereafter, set-aside the order of Appellate Authority on ground that Administrative Committee was not competent to entertain the appeal after the period prescribed for



limitation and has set-aside the order by maintaining the punishment order dated 02.03.1987. The petitioner filed a revision against the order passed by respondent No.2, which was dismissed on 13.07.1998 (Annexure P-15). Learned counsel for the petitioner further submits that the defence of the petitioner and the fact that there is direct involvement of the Manager, was not considered. It was the Manager, who had directed the petitioner to give post-dated receipts to the loanees. The relevant receipt of books were in the custody of the Manager, which were never placed on record during the disciplinary proceedings. Further, the defence of the petitioner was never considered that the Registrar does not have the power to quash the order of Administrative Committee.

3. *Per contra*, learned counsel for respondent No.3/Bank submits that the Administrative Committee passed the order on 11.12.1992 without any jurisdiction. The appeal of the petitioner was entertained beyond the period of limitation without there being any application seeking condonation of delay. Once the order is not passed by the competent authority, the order is *void ab initio* and non-est in the eyes of law. The Managing Director is the Appellate Authority in terms of the Rules of 1978.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. The Appellate Authority, Registrar, and revisional authorities acted in accordance with the provisions of the Punjab State



Cooperative Land Mortgage Bank Service (Common Cadre) Rules, 1978. The petitioner's appeal was entertained beyond the prescribed period of limitation without any condonation of delay and, therefore, the orders passed by the Administrative Committee and subsequent authorities cannot be faulted. Further, the disciplinary proceedings were conducted in accordance with the rules and the petitioner was afforded ample opportunity to present his defence. The plea that the Manager had directed the petitioner to give post-dated receipts does not vitiate the disciplinary process as the records placed before the authorities were considered in accordance with the Rules.

6. It is settled law that this Court may only exercise its powers under Article 226 of the Constitution of India when the findings recorded in lieu of a disciplinary action, are arbitrary, tainted with procedural illegality or manifest any prejudice. This Court cannot reappreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. Tritely, a High Court cannot sit in appeal with respect to the decision arrived in pursuance of disciplinary proceedings. As such, this Court must confine itself to ensuring that the findings rendered are justified by the material available on record, that the proceedings were conducted in compliance with the prescribed procedure as well as the principles of natural justice and that the penalty imposed is proportional to the misconduct.



7. A two-Judge Bench of the Hon'ble Supreme Court in ***Union of India vs. P. Gunasekaran, (2015) 2 SCC 610***, speaking through Justice Kurian Joseph, made the following observations in this regard:

*“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. **In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence.** The High Court can only see whether:*

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*



(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.” (emphasis added)

8. Reliance in this regard may also be made to the judgements rendered in *B.C. Chaturvedi vs. Union of India*, (1995) 6 SCC 749 and *Indian Oil Corpn. Ltd. vs. Ashok Kumar Arora*, (1997) 3 SCC 72.

9. Furthermore, a two-Judge Bench of the Hon’ble Supreme Court in *S.R. Tewari vs. Union of India*, (2013) 6 SCC 602, speaking through Justice B.S Chauhan, made the following observations in this regard:

“29. In *Union of India v. R.K. Sharma* [(2001) 9 SCC 592 : 2002 SCC (Cri) 767 : AIR 2001 SC 3053] , this Court explained the observations made in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611 : 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] observing that if the charge was ridiculous, the punishment was harsh or strikingly disproportionate it would warrant interference. However, the said observations in *Ranjit Thakur* [*Ranjit Thakur v. Union of India*, (1987) 4 SCC 611: 1988 SCC (L&S) 1 : (1987) 5 ATC 113 : AIR 1987 SC 2386] are not to be taken to mean that a court can, while exercising the power of judicial review, interfere with the punishment merely because it considers the punishment to be disproportionate. It was held that only in extreme cases, which on their face, show perversity or irrationality, there could be judicial review and courts should not interfere merely on compassionate grounds.

30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person



would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. (Vide *Rajinder Kumar Kindra v. Delhi Admn.* [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805] , *Kuldeep Singh v. Commr. of Police* [(1999) 2 SCC 10 : 1999 SCC (L&S) 429 : AIR 1999 SC 677] , *Gamini Bala Koteswara Rao v. State of A.P.* [(2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] and *Babu v. State of Kerala* [(2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179].)

31. Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible.”

(emphasis added)

10. In view of the above, this Court finds no perversity, illegality or irregularity in the punishment order dated 02.03.1987 (Annexure P-3); appellate order dated 11.12.1992 (Annexure P-11); Registrar’s order dated 18.06.1997 (Annexure P-13) and revisional order dated 13.07.1998 (Annexure P-15).

11. The writ petition is dismissed, accordingly.

12. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

10.12.2025
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No