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

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CWP-11634-2018 (O&M)
Date of Decision: 06.08.2025.

AMARJIT SINGH CHAWLA

... Petitioner(s)

Versus

PUNJAB AND SIND BANK AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

PRESENT: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. R.S. Lohan, Advocate,
for the respondents/Bank.

VINOD S. BHARDWAJ, J (ORAL)

Seeking setting aside of the order dated 12.05.2012 passed by the disciplinary authority vide which the petitioner was dismissed from service on account of his absence from duty from September 2009 to June 2010 as well as the subsequent order dated 14.07.2015 passed by the appellate authority and the order dated 19.07.2016 passed by the reviewing authority, the instant writ petition has been filed.

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2 Learned counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a Clerk in the year 1975. He had rendered nearly 35 years of service with the respondent Bank and that without taking into consideration the past service record, the respondents have dismissed the petitioner vide the impugned order dated 12.05.2012 on the ground of an unauthorised absence from duty. It is contended that the petitioner's health was deteriorating and he was also suffering from severe depression since July 2009 while working as a Senior Manager in the Miller Ganj Branch of Ludhiana. He submits that on account of the illness suffered in Delhi while he was deputed on official duties, he could not join back on duty and an intimation in this regard was sent to the Bank supported by the medical certificate issued by the Government Medical Officer. The petitioner submitted his medical leave again, with duly supported certificates, regarding his illness on 23.01.2010. The respondent Bank accepted the said certificate and also granted service benefits to the petitioner till April 2010, however, on 9th June 2010, the charge sheet was issued to the petitioner for an unauthorised absence and that the Bank had never been informed by the petitioner. He submits that Respondent Bank, for the first time, vide communication dated 03.06.2010 conveyed to the petitioner that since he is not resuming his duties despite reminders, therefore his absence from duty is being treated as unauthorized.

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3. Vide order dated 25.11.2020, bank suspended the petitioner during the pendency of the department enquiry. The Enquiry Officer has submitted his exparte enquiry vide report dated 30.03.2011 and found the petitioner to be guilty of unauthorised absence from duty. He submits that on the basis of exparte enquiry report, bank passed the impugned order of dismissal from service. It is further submitted that the order of dismissal from service was passed by the disciplinary authority one month prior to the date of his superannuation on 30.06.2012. Counsel contends that the said punishment is shockingly disproportionate to the charge of misconduct against the petitioner and by completely ignoring nearly 35 years of unblemished service rendered by the petitioner. He places reliance on the judgment of this Court passed in the matter of **Smt. Kailash Sharma Vs. State of Punjab through Secretary to the Govt. Punjab, Education Department reported as 2004 (2) SLR 50.** The relevant part of the same reads thus:-

“19 In the present case, I find that while directing its attention to the gravity of the charge found proved against late Smt. Kailash Sharma, i.e, absence from duty and the fact that she was not willing to join duty except in Government Higher Secondary School, Kapurthala, the punishing authority blissfully ignored the fact that as on the date of commencement of the period of absence. She had served for 22 years and during the long

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period, there was no cause of complaint from any quarter regarding her behaviour, conduct, performance or integrity. In the written statement filed on behalf of the respondents, it has not even been suggested that before absenting from duty w.e.f 1.7.1982, late Smt. Kailash Sharma had committed any misconduct or any adverse remark was recorded in her Annual Confidential Reports. Rather, their main emphasis is on her failure to get the leave sanctioned and join duty. In my opinion, the omission to consider the unblemished service record of 22 years of the delinquent is sufficient to record a conclusion that the punishment is vitiated due to non-application of mind.

20 *I am also inclined to agree with the learned counsel for the petitioner that the punishment of removal from service imposed by the punishing authority which has the effect of depriving late Smt. Kailash Sharma of the pension and other retiral benefits is wholly arbitrary and is such which shocks the conscious of the Court.*

21 *In view of the above conclusion, I may have remanded the case to the disciplinary authority to re-consider the question of punishment to be imposed on the delinquent, but keeping in view the fact that she is no longer in this world and the case has remained pending in this Court for 15 years, I am satisfied that no useful purpose would be*

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served by remanding the case. I also feel that ends of justice would be met by setting aside the punishment of removal from service and substituting the same with compulsory retirement w.e.f 1.7.1982 i.e the date from which late Smt. Kailash Sharma absented from duty.

22 *In the result, the writ petition is partly allowed. Order Annexure P13 is upheld in so far as finding of guilty is concerned. However, the punishment of removal from service is set aside and is ordered to be substituted with that of compulsory retirement w.e.f 1.7.1982 As a consequence, the legal representative of late Smt. Kailash Sharma shall be entitled to get retiral benefits which would have been payable to her had she been retired w.e.f 1.7.1982 The concerned authority is directed to calculate the retiral benefits payable to the legal representative of Smt. Kailash Sharma by treating her to have been compulsory retired by way of punishment w.e.f 1.7.1982 The needful be done within a period of six months from the date of submission of a certified copy of this order.”*

4 He also refers to the Division Bench judgment of this Court in the matter of **O.P. Gupta Vs. Life Insurance Corporation of India and others, reported as 2008 (2) S.C.T. 58.** The relevant part of the same reads thus: -

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“14. In Mohd. Nizamuddin's case (supra), relied upon by the learned counsel for the respondents, charge of misutilization of car loan of Rs. 80,000/- and unauthorised absence for over two years was proved against the employee. Still further, voluntary retirement was found to be preceded by an interview after a detailed criteria prescribed is to be followed. However, in the present case, there is no charge of misutilization of any fund of the respondent-Corporation nor is any limitation for the grant of request for voluntary retirement has been pointed out by the respondents. No fact on record has been brought to our notice from which it can be inferred that the Corporation suffered any loss on account of absence of the petitioner.

15. In view of the above-said fact, we find that the punishment of removal from service imposed upon by the petitioner is harsh, wholly disproportionate to the misconduct proved against the petitioner and consequently we modify the order of punishment to that of voluntary retirement, being one of the rare cases which warrant interference by this Court. However, such order of voluntary retirement is subject to payment of Rs. 1 lac as costs of inquiry proceedings. Learned counsel for the petitioner has consented to the order of costs of inquiry proceedings but stated that such costs be recovered/adjusted out of the retiral benefits payable to the petitioner.

16. In view of the above, we set aside the order dated 3.12.2005, Annexure P-20, so as to substitute the order of punishment of removal from service to that of voluntary retirement from 03.12.2005. The period from 31-05-1997 to 02.12.2005 shall be treated as the dies

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non period. The respondents shall release the retiral benefits in accordance with law after adjusting Rs. 1 lac out of such pensionary benefits payable to the petitioner.”

5 He submits that once the service period and the duration thereof has not been taken into consideration, the imposition of punishment of dismissal from service and thereby forfeiting all pensionary benefits is unjustified and shockingly disproportionate.

6 Opposing the prayer, counsel for the respondent-Bank contends that the service record of the petitioner is not unblemished and that besides the dismissal order, the petitioner was earlier charge-sheeted on 05.03.2011 for carelessly signing the credit voucher for issuance of M.C. for Rs.3,50,000/- on 7.6./2008 at Branch Office, Miller Ganj and charge sheet dated 07.05.2012 was also issued for lapse/irregularities in making various payments of cheque resulting in a fraud of Rs.6.04 crores approximately and the said proceedings against the petitioner were kept in abeyance since the petitioner had already been dismissed. It is pointed out that one recovery suit had also been filed against the petitioner and others which is currently pending and an FIR has also been registered by the Central Bureau of Investigation (CBI), Anti-Corruption Branch, Chandigarh.

7 Responding to the above, Learned Counsel for the petitioner contends that the allegations with respect to the carelessness in signing the M.C. Voucher does not establish any loss to the Bank

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and that in so far as the irregularities and lapses are concerned, the same is not the basis for the order of dismissal against the petitioner.

8 He further submits that the civil suit for recovery had been filed against 11 bank officers and that there is no specific attribution of any lapse of violation of any law against the petitioner.

9 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition with their able assistance.

10 Undisputedly the order of punishment dismissing the petitioner from service had been passed on account of unauthorised absence from duty by the petitioner. It is also not in dispute that there is no major allegation of misconduct prior to the initiation of the disciplinary proceedings in question vide charge sheet dated 09.06.2010. The subsequent proceedings are stated to have been initiated in the year 2012. The order of dismissal is thus solely on the basis of unauthorised absence.

11 In view of the Single Bench judgment of this Court in the matter of Smt. Kailash Sharma (supra) and the judgment passed by the Division Bench of this Court in the matter of O.P. Gupta (supra) where the order of dismissal from service disregarding the length of service rendered by the employee was held to be bad, I find that the punishment of dismissal from service having the effect

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of forfeiture of all the service benefits is shockingly disproportionate.

12 The past mis-conduct could always be taken into consideration for determining punishment to be imposed. Even though subsequent misconduct may be relevant in some cases, however, no departmental proceedings have been finalised in the said allegation, hence, it cannot be said that the same are proven charges of misconduct.

13 Consequently, the impugned order of dismissal from service is set aside.

14 Next comes the question as to whether the matter needs to be remanded for a fresh order on merits or not. The impugned order was passed in the year 2012 and already a period of 13 years has elapsed since. Remanding the case at this stage would restart the legal wrestle till the matter is finally settled. The petitioner was 65 years of age when the writ was filed and the same has remained pending for 07 years. He is thus already 72 years of age. It would thus be important that a finality is given to the proceedings. The order of dismissal from service is hence modified to that of compulsory retirement, in the interest of justice. However, this Court refrains from commenting any further on the other disciplinary proceedings that were initiated or contemplated by the respondent Bank and were ordered to be kept in abeyance since the

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petitioner had already been dismissed from service. The respondent bank would be at liberty to proceed further in the said departmental proceedings and take appropriate decision, if it so desires. The present judgment thus would not be an impediment against the respondent bank in taking a considered decision on the said disciplinary proceedings contemplated/initiated.

15 The present writ petition is allowed in above terms.

August 06, 2025.	(VINOD S. BHAR DWAJ)
raj arora	JUDGE
<i>Whether speaking/reasoned</i>	: Yes/No
<i>Whether reportable</i>	: Yes/No