2025:PHHC:035836

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

220 **CWP-9217-2017**
Date of Decision: 11.03.2025

SADHU RAM

... Petitioner

VERSUS

UCO BANK AND ANOTHER

... Respondents

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

Present: Mr. Suman Jain, Advocate
for the petitioner.

Mr. Shekhar Verma, Mr. Gurvinder Pal
Singh and Ms. Komal Bishnoi, Advocate
for the respondents.

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VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 07.07.2014 (Annexure P-16) whereby the petitioner has been given the punishment of compulsory retirement; and it has also been ordered that the period of suspension and dismissal from service shall not be treated as 'on duty' and no salary, allowances/benefits/any other allowance of any kind will be payable to him for the period between suspension and the order of compulsory retirement as well as to the order dated 30.12.2016 dismissing the appeal.

Learned counsel appearing on behalf of the petitioner contends that the petitioner was appointed on 08.07.1986 as a Clerk with the respondent-Bank. A society by the name of Bhiwani Insurance and Bank Employee Coop. (SE) T&C Society Ltd. was registered on 22.08.1997. The petitioner was the Honorary Secretary of the said Society and one Mr. Sukhbir Singh was the

President while Mr. Ashok Kumar Saroha was its Vice President. Another Society namely Bajrang Bali Coop. N.A.T. & Society Ltd. was also registered subsequently, and the petitioner was the Honorary Secretary of that Society also. The petitioner claims that the Bank was duly informed and apprised of these two societies of which the petitioner was the Honorary Secretary. So much so, one of the senior officer namely Mr. S.S. Kaushik, Deputy Chief Officer was also the beneficiary of this society and had obtained loan therefrom. Current account of the said Society(ies) was also opened with the respondent Bank under the signatures of the petitioner. The petitioner was later promoted from the post of Clerk to the post of Computer Operator on 13.07.2006. The respondent-Bank, however, served a show-cause notice to the petitioner on 28.05.2007 on the primary allegations that even though the said Societies had been floated in the years 1997 and 1999 respectively but the petitioner did not obtain permission from the Competent Authority of the Bank to act as Secretary of the said Societies. The second allegation was that various complaints had been received from the depositors of the Societies against the petitioner that he was not making the payment of interest as well as principal amount on maturity. A further allegation of an unauthorized absence from duty was also levelled.

Notwithstanding issuance of the above show-cause notice, the petitioner was still further promoted to the post of JMGS-I on 06.07.2007 on the merit-cum-seniority basis.

The petitioner thereafter submitted his response about the charges as well as to unauthorized absence and submitted the medical certificate(s) in support of the same.

Learned counsel for the petitioner further contends that notwithstanding the details furnished by the petitioner in his reply clarifying everything, a charge sheet dated 10.12.2007 was served upon the petitioner and a regular department inquiry under Regulation 6 of UCO Bank Officer Employees' (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as 'Regulations of 1976') was initiated. The statement of allegations alongwith the charges levelled against the petitioner are as under: -

> *"1) Shri Sadhu Ram-alongwith some other persons floated two Cooperative Societies namely Bhiwani Insurance and Bank Employee Coop(SE) T & C Society Ltd., & The Bajrang Ball Coop. N.A.T. & C. Society Ltd. for both of which he was working / functioning as Secretary. During the course of his functioning as Secretary of Society (5) he canvassed for deposit from different persons and for the amount of deposit so received issued receipts, under his single signatures as Secretary on behalf of the respective Society(s) mentioned above.*
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> *2) The Bank has received complaints from some of such depositors of the Society(s) that Shri Sadhu Ram as Secretary of the Society (s) is not making payment of the receipts issued to them which have become due for payment, in spite of their repeated requests and visits. An FIR bearing No.315 dated 26.05.2007 has also been lodged with the Police Station Bhiwani by these depositors against him under various sections of IPC for non-payment of their money. Shri Sadhu Ram being an Officer employee of UCO BANK has thus tarnished the image of the Bank in the eyes of the public in general and Banks' Customers in particular which is an act unbecoming of a Bank Officer.*
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> *3) Shri. Sadhu Ram is reported to have absented himself from duty unauthorisedly and letters written/sent by B/O Bhiwani and BIO HVV Bhiwani in this connection to his last recorded address were returned undelivered with the remarks "OUT OF STATION"*

Learned counsel for the petitioner further contends that the petitioner raised objections to the conducting of regular departmental inquiry on multiple grounds, however, notwithstanding the same, the inquiry officer submitted his report dated 20.11.2008, wherein the conclusions drawn are vague, contrary to the allegations and do not disclose any material fact. A specific attention of this Court in this regard is drawn to the extract of the inquiry proceedings: -

> *"The regular hearings were held on 28.03.08, 11.04.08, 23.04.08, 30.04.08, 09.05.08, 20.05.08, 3.06.08, 10.06.08, 25.06.08, 15.07.08, 12.08.08 and concluded on 20.08.08. CSOE did not attend the proceedings on 09.05.08, 20.05.08, 3.06.08, 10.06,08, 25.06.08, 15.07.08 although sufficient dates were given to him to attend the Enquiry Proceedings at Bhiwani, as all the complainants are residents of Bhiwani and P.O. informed that due to their old age, the witnesses are unable to attend the proceedings at other places. But CSOE time and again did not attend the proceedings on the plea that he is fearing danger to his life at Bhiwani. Thereafter the CSOE was given a chance to produce his defence at Panipat on 12/08/08 and 20.08.08. Briefs from P.O. was received on 3.10.08 and copy of the same was sent to CSOE by P.O on 01.10.2008 but E.O was informed by CSOE that he has not received the briefs, so copy of P.O's briefs were sent by EO on 10.10.08 at his given address & by P.O. When CSOE was contacted on his mobile about non receipt of his briefs, EO was informed by CSOE that he has not sent the briefs & EO should submit his report. Even then E.O. sent a letter on 03.11.08. To CSOE giving him one more chance to send his briefs within 7 days. But even after that day no briefs were received from CSOE. Hence my report is being submitted."*

He contends that the report is cryptic and does not discuss any material or basis for the conclusion. So far as the findings on allegation No.1 are concerned, the relevant extract of the same reads thus: -

> *"To substantiate the allegation the P.O. relied on the documents Exm 14 to Exm 20 which shows that Mr. Sadhu Ram had floated two coop. societies as mentioned above and he was Honorary Secretary of these societies. Further P.O. has referred Exm 1(i) to Exm II(i-vii) which are fixed deposit receipts issue by the Bhiwani Ins. & Bank Employees coop (SE) T&C Society ltd. & these bears the signatures of CSOE as Authorized Signatory of the society.*
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> *On the other hand CSOE has never denied having floated these two societies namely the Bhiwani Ins & Bank Employees Co-op (SE) T&C Society Ltd. & The Bajrang Bali Co-op N.A.T & Society Ltd. CSOE has also admitted that Ist named society has opened the current account no. 1123 with UCO Bank Bhiwani Main Branch & Mr. Sadhu Ram Hony. Secretary along with President was operating the said account. It is further alleged that the CSOE during the course of functioning as Hony. Secy of Society (s) has canvassed for deposit. P.O., to prove this allegation has called the witnesses as marked MWI, MW2, MW3, MW4, MW8 & they have deposed in the enquiry proceeding that they have deposited the amount in FDR's of Society(s) on the canvassing of Mr. Sadhu Ram that he will give higher rate of interest. As CSOE was known to the witnesses he was working in UCO Bank Bhiwani Branch since long, so on his persuasion they had deposited the amount with the society (s).*
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> *CSOE on the other hand produced Mr. Satbir Singh as his defence witness who is presently secretary of both the societies since 31.12.07 and 16.05.08 & on reply by cross examining P.O. Def. Witness informed that he is giving statement on the basis of record available & confirm that the amount of depositor is still lying with the societies & societies are liable to pay the amount.*

> *Thus allegation No. 1 is proved on the basis of Management witnesses and as documents marked Exm(1) to Exm 11 (vi) that CSOE collected deposits for society(s) from Bank's customer under his single signature."*

Referring to the above, it is contended that the report makes no reference of any evidence or gives reasons as to how the charge was proved.

He further refers to allegation No.2 and submits that the findings have been recorded against the petitioner about proving of the said charge as well as about the registration of FIR No.315 dated 26.05.2007 at Police Station City Bhiwani, by the depositors against the petitioner for non-payment of their money. The relevant extract of the same is reproduced hereinafter below:

> *"P.O. relied on the letter written by depositors as per Exm l to Exm ll which are complaints addressed to Zonal Manager of UCO BANK at Chandigarh with copy to CMD of the Bank. As per Exm 4 to Exm 11 these are complaints addressed to D.C. Bhiwani P.O. further called his witnesses MWI to MW 4 who further deposed that they have complained to different quarter against the CSOE.*
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> *P.O. further relied on the witness as per Exm 12 which is copy of the FIR lodged with the police by Mr. Ram Kumar Verma & the contents of FIR are similar to those given in the complaints.*
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> *As CSOE could not reply satisfactorily why he being the main working member of the society could not repay the deposit amount to the depositors even after their due date. As the depositors have lodged complaints with Bank and also filled FIR with Police for non payment. As per Exm l to Exm 11 & Exm 12 copy of FIR Allegations 2 is proved. That CSOE being the main functionary of these societies has not repaid the deposit on due date."*

He further submits that notwithstanding the specific deposition and the account statements having been produced before the Inquiry officer to the effect that the amount of the depositors is lying with the Society and the Society is liable to pay the said amount, yet, without any tangible basis or without appreciating the evidence adduced by the Presenting Officer during the inquiry proceedings, the report was submitted about the charges being proved against the petitioner. Relying on such uncorroborated allegations and charges, the respondents passed an order against the petitioner on 06.01.2009, whereby the penalty of dismissal from bank's service was imposed upon the petitioner.

Aggrieved thereof, the petitioner preferred a statutory appeal before the Appellate Authority. Vide order dated 18.06.2009, the said appeal was also dismissed and the penalty imposed vide order dated 06.01.2009 by the Disciplinary Authority was upheld.

Both the said orders were subject matter of challenge in CWP No.6986 of 2010 filed before this Court. The said writ petition was later decided vide judgment dated 26.08.2013, holding that the punishment imposed upon the petitioner was disproportionate to the charges levelled against him. The punishment order dated 06.01.2009 as well as order dated 18.06.2009 passed by the Appellate Authority were set aside and the matter was remanded to the Disciplinary Authority to pass a fresh order of punishment. It was also directed that since the punishment order as well as the appellate order have been set aside, the same would not automatically entitle the petitioner to all consequential benefits and the same would be subject to the afresh order to be passed by the Disciplinary Authority.

The respondent-Authorities challenged the order of the Single Judge in an LPA No.1963-2013, which was also dismissed by the Division Bench of this Court vide order dated 24.02.2014 thereby upholding the order of the Single Bench by recording as under: -

> *"We are satisfied with the order passed by the learned Single Judge. There is nothing on record to show that money of the alleged customers of the bank was embezzled by the respondent through his relatives who were running the Society. It was rightly noticed by the learned Single Judge that dismissal order is disproportionate to the acts of omission and commission committed by the respondent. Before the date when dismissal order was passed the respondent had already served for more than 20 years with the bank. There is nothing on record to show that prior to the present complaint, work and conduct of the respondent was not satisfactory."*

A specific observation has been recorded by the Division Bench that there is nothing on record that the money deposited by the customers in the bank was embezzled by the petitioner himself or through his relatives who were allegedly running the Societies. It was also recorded that the order of dismissal from service was disproportionate to the acts/omissions/commissions committed by the petitioner, more so, when the petitioner had already served for more than 20 years with the bank and there is nothing on record to show that the work and conduct of the petitioner prior thereto was not satisfactory.

Consequently, in compliance with the order passed by the Single Bench and as affirmed by the Division Bench in LPA No.1963 of 2013, a fresh order was passed by the respondent-Authorities on 07.07.2014 whereby the order of removal from services was modified to that of compulsory retirement from the service on the proven charges of canvassing deposits for the Society and for not ensuring that the payment of the deposits be made to the customers. The same was stated to be violative of Regulation 3(1) of Regulations of 1976, being an act unbecoming of an officer/employee of the Bank. It was also further ordered that the period w.e.f. the date of suspension of the petitioner till his dismissal from service shall not be treated as an 'on duty' period and no salary/allowances/benefits or any other allowances of any kind will be payable to the petitioner for the said period.

Learned counsel for the petitioner contends that so far as the issue of registration of FIR No.315 dated 26.05.2007 against the petitioner on the allegations of the payments having not been made by the Society alongwith interest on its maturity as promised is concerned, the Judicial Magistrate Ist Class, Bhiwani specifically recorded his finding that there was no evidence to establish the guilt of the accused persons under Sections 406, 409, 420, 506 and 120-B of IPC and that the defence evidence sufficiently negated the prosecution version. The petitioner was acquitted by the Trial Court vide judgment dated 29.02.2016, which attained finality. The records of the Society were also duly audited by the Audit Department from time to time and no irregularity was found therein. It was specifically noticed that the testimony of the defence witness (DW-1), on the basis of original summoned record, established that no embezzlement was found by his department in the record of the society in any manner. It was also recorded therein that there was no justified reason to raise any doubt to the testimony of the witnesses since the same was based on original summoned record and the deposition was made by the official witnesses. It was also noticed by the Judicial Magistrate Ist Class that the deposits in question had been made with the Society and no deposit had been given to the petitioner, and as per the testimonies of the witnesses, they had received interest in their fixed deposits from time to time from the Society. The sole grievance espoused by the complainant/prosecution witnesses was that the Society failed to repay the maturity amount in the time. It was also recorded that the mere delay in payment of interest would not constitute an offence punishable under Section 420 IPC (as it was then). Accordingly, the petitioner was acquitted of the charges framed against him.

He contends that the petitioner thereafter moved a representation to the respondent-Authorities to re-consider the quantum of the punishment imposed upon him, however, no decision was taken. It is submitted by the petitioner that the matter came up for hearing on 29.08.2024 and the contention of the petitioner was recorded to the effect that he would be satisfied in case the latter part of the order i.e. that the petitioner would not be treated on duty and no salary/allowances/benefits/any other allowance of any kind would be payable to him is withdrawn and the petitioner is given all consequential benefits.

The matter came up for hearing on 29.08.2024, when the following order was passed: -

> *"Learned counsel for the petitioner and respondents have argued vehemently on the merits of the case and the counsel for the petitioner has summarized that though the learned Single Judge had set aside the order of dismissal and remanded the matter back to the Authorities coupled with the fact that the LPA-1963-2013 filed by the respondents also came to be dismissed with certain observations, the respondents have tried to circumvent the order and though have reduced the punishment from "dismissal from service" to that of "compulsorily retirement", however, with the condition that the period when the petitioner remained under*

> *suspension and dismissed from service will not be treated as on duty and no salary and allowance/benefits/any other allowance of any kind will be payable to him.*
>
> *At this stage, the counsel for the petitioner submits that without prejudice to the right of the petitioner, the petitioner would be satisfied if the later part of the order is withdrawn and the petitioner is given all the consequential benefits, he shall not press for any other prayer.*
>
> *Learned counsel for the respondents seeks time to complete his instructions in this regard so that the litigation could be put to rest.*
>
> *Adjourned to 28.10.2024."*

Counsel for the respondent-Bank, as per the instructions received by him, submits that the Bank is not willing to waive off the said part of the order as regards the status of period between suspension and eventual order of compulsory retirement of the petitioner. It is stated that as per his instructions, the petitioner is entitled to payment of subsistence allowance, as per his eligibility, in terms of the Regulations of 1976 alongwith all other consequential benefits, as per the bank's extant guidelines. However, the aforesaid instructions are severely lacking in any material information and seem to conceal more than they tend to reveal. The counsel for the petitioner submits that since the respondent bank has acknowledged his entitlement, the order passed by the bank thus needs to be modified to the said extent.

On a specific query put to the counsel for the respondent-Bank whether the petitioner would be entitled to subsistence allowance from the date of revised order of punishment notwithstanding the fresh passed order, passed on remand, would relate back to the date of original passing of the order, he is not in a position to respond to the query. Further, counsel is not in a position to respond to the question that since the order of removal from service has been modified to compulsory retirement, hence, there has also been a delay in disbursement of the pensionary benefits and other retiral benefits to the petitioner, and as such, the petitioner may become entitled to claim interest thereupon, in terms of the regulations applicable to the bank.

I have heard learned counsel for the parties and have gone through the documents available on Court file.

It has remained undisputed that the punishment of compulsory retirement has been imposed upon the petitioner and even though the period of suspension and dismissal from service has been treated as an 'on duty period, however, all benefits have been denied to him. Denial of subsistence allowance has been held to be violative of principles of natural justice in a catena of judgments.

The respondents have already informed that the petitioner is entitled for payment of subsistence allowance alongwith all consequential benefits only as per Bank's guidelines.

The counsel for the petitioner thus having given up his challenge to the remaining part of the order and having confined his prayer to the extent of the consequential benefits, the controversy would not require any further consideration.

The petitioner is thus held entitled to the subsistence allowance from the date of order of suspension till 07.07.2014 when the order of compulsory retirement was passed. Further, the notional consequential benefits of service for the said period till passing of the fresh order of compulsory retirement on 07.07.2014 shall also become admissible to the petitioner.

Let the admissible benefits be released to the petitioner within a period of three months of the receipt of certified copy of this order.

The petition is hence partly allowed in above terms.

(VINOD S. BHARDWAJ)
JUDGE

11.03.2025.
Rajender

Whether speaking/reasoned *: Yes/No*

Whether reportable *: Yes/No*