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

LPA-474-2018 (O&M)

Date of Decision: 30th July, 2025

PUNJAB NATIONAL BANK AND OTHERS

.....Appellant(s)

V/s.

***N.K. BHATIA, ASSISTANT MANAGER, PUNJAB NATIONAL BANK,
BHUNA, DISTRICT HISAR, HARYANA***

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
 HON'BLE MR. JUSTICE KULDEEP TIWARI

Present Mr. Saurav Verma, Advocate
 for the appellant.

 Mr. H.C. Arora, Advocate
 for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Punjab National Bank has filed the present Appeal, assailing the order of the learned Single Judge dated 12.01.2018 passed in CWP-11374-1996, whereby the punishment orders imposed upon the respondent (petitioner therein) has been set aside.

2. A further direction is issued to the disciplinary authority to verify whether the respondent is in service or not. If he is not in service, the question of imposing any penalty was not to arise. An observation was also made by the learned Single Judge that this aspect would be examined with reference to the Regulations, and the order to be passed would clearly refer to statutory Rules.

3. It transpires that the respondent was employed in the Punjab National Bank as Assistant Manager. He was subjected to disciplinary proceedings by issuing a charge sheet on 11.12.1991 in respect of certain

loan transactions sanctioned by him while he was working in Branch Office, Nagori Gate, Hisar. The Inquiry Officer found the charge to be proved. Show cause notices were issued to the respondent to which he submitted a reply objecting to the findings of the Inquiry Officer. The disciplinary authority however agreed to the conclusions of the Inquiry Officer and proceeded to impose penalty of reduction of salary of 5 stages in time scale in which he was then placed. This order came to be challenged before the Writ Court.

4. The Writ Court interfered with the matter after recording a finding that the disciplinary authority had not applied its mind to the objections and its order contained no reasons. The observations of the learned Single Judge, in that regard, reads as under:-

“Relevant extract of the order of disciplinary authority is reproduced hereunder:-

“I have gone through the findings of the Enquiry Officer along with related records of the case and submissions made by Shri Bhatia on the enquiry report and find that Article of Charge No. I & II have been fully proved and Article of Charge No. III has been partly proved against him. I agree with the findings of the Enquiry Officer and hold Shri Bhatia responsible for the charges proved against him and decide to impose upon him the major penalty of 'Reduction of his salary of five stages in the time scale in which he is presently placed.'

I order accordingly.”

Perusal of the above decision of the disciplinary authority it is crystal clear that very object of furnishing of Inquiring Officer's Report and seeking explanation and in not considering explanation of the employee by the disciplinary authority is defeated for the reasons that there is not even single issue has

been considered by the disciplinary authority. Consequently, disciplinary, appellate as well as reviewing authorities' orders are set aside. Matter is remanded to the disciplinary authority to pass a fresh order while considering petitioner's reply on the inquiring officer's report. He is also directed to consider each of the contentions raised by the petitioner and to pass an order in accordance with law. The disciplinary authority is hereby directed to verify at this stage whether petitioner is in service or not. If he is not in service question of imposing any penalty may not arise. This may also be examined with reference to relevant regulations before passing order and it should be reflected in the order to be passed.

With the above observation, CWP stands allowed in part.”

5. Learned counsel for the appellant-Bank does not dispute the contents of the orders passed by the disciplinary authority. The observations of the learned Single Judge in holding the order of the disciplinary authority to be bad for non-application of mind, is also not challenged. It is by now well settled that reason is the soul of an order. Where the disciplinary authority makes no observations on the merits of the reply submitted to the show cause notice and merely proceeds to pass an order of punishment by observing that he agrees with the conclusions of the Inquiry Officer, such order cannot have the approval of the law. To this part of the order of the learned Single Judge, there can be no challenge.

6. Learned counsel for the appellants however has placed reliance upon the applicable Rules to contend that notwithstanding the delinquent employee attaining the age of superannuation, it would be open for the employer to pass appropriate orders by treating the disciplinary proceedings to have continued. Reliance is placed upon Regulations 20(3) (iii) of the

Punjab National Bank (Officers) Service Regulations, 1979 which reads as under:-

“20 (3) (iii) - The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay or allowance after the date of superannuation. He will also not be entitled for the payments of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF.”

7. Learned counsel for the appellant has also placed reliance on the judgment of the Hon’ble Supreme Court in the case of **Chairman-cum-Managing Director, Mahanadi Coalfields Limited** Vs. **Sri Rabindranath Choubey** ; 2020 (2) SCT 554, wherein Rule 20(3)(iii) of the Punjab National Bank (Officers) Service Regulations, 1979 also came to be examined. Para 22 of the judgment of the Hon’ble Supreme Court is reproduced as under:-

“22. We are, therefore, of the opinion that it was permissible for the Bank to continue with the disciplinary proceedings relying on or on the basis of Regulation 20(3)(iii) of the Punjab National Bank (Officers) Service Regulations, 1979.”

8. After referring to various judgments on the issue, the Hon’ble Supreme Court has observed in Paras 10.30 and 10.31 as under:-

“10.30 *In view of the various decisions, it is apparent that under Rule 34.2 of the CDA Rules inquiry can be held in the same manner as if the employee had continued in service and the appropriate major and minor punishment commensurate to guilt*

can be imposed including dismissal as provided in Rule 27 of the CDA Rules and apart from that in case pecuniary loss had been caused that can be recovered. Gratuity can be forfeited wholly or partially.

10.31 *Several service benefits would depend upon the outcome of the inquiry, such as concerning the period during which inquiry remained pending. It would be against the public policy to permit an employee to go scot free after collecting various service benefits to which he would not be entitled, and the event of superannuation cannot come to his rescue and would amount to condonation of guilt. Because of the legal fiction provided under the rules, it can be completed in the same manner as if the employee had remained in service after superannuation, and appropriate punishment can be imposed. Various provisions of the Gratuity Act discussed above do not come in the way of departmental inquiry and as provided in Section 4(6) and Rule 34.3 in case of dismissal gratuity can be forfeited wholly or partially, and the loss can also be recovered. An inquiry can be continued as provided under the relevant service rules as it is not provided in the Payment of Gratuity Act, 1972 that inquiry shall come to an end as soon as the employee attains the age of superannuation. We reiterate that the Act does not deal with the matter of disciplinary inquiry, it contemplates recovery from or forfeiture of gratuity wholly or partially as per misconduct committed and does not deal with punishments to be imposed and does not supersede the Rules 34.2 and 34.3 of the CDA Rules. The mandate of Section 4(6) of recovery of loss provided under Section 4(6)(a) and forfeiture of gratuity wholly or partially under Section 4(6)(b) is furthered by the Rules 34.2 and 34.3. If there cannot be any dismissal after superannuation, intendment of the provisions of Section 4(6) would be defeated. The provisions of section 4(1) and 4(6) of Payment of Gratuity Act, 1972 have to be given purposive interpretation, and no way interdict holding of the departmental inquiry and punishment to be imposed is not the subject matter dealt with under the Act.”*

9. With reference to the above observations, it is urged that though the respondent had attained the age of superannuation, yet, a liberty ought to have been granted to the employer to pass a fresh reasoned order after considering the objections of the respondent in the matter.

10. Learned counsel for the respondent however states that such liberty be not given to the employer, at this stage, in view of the fact that the respondent not only has attained the age of superannuation, but is almost 69-70 years of age. It is urged that it would be inequitable if liberty is granted to the appellant-Bank to pass a fresh order.

11. In order to appreciate the submissions urged by learned counsel for the parties on the question of grant of relief, we have perused the charge-sheet as well as the report of the Inquiry Officer. The charges against the respondent included the charges of financial impropriety on account of disbursement of loan to dead persons. To what extent respondent was at fault is an aspect which would require consideration and cannot be ignored only because of the advanced age of the respondent. In such view of the matter, we are persuaded to accept the prayer of the learned counsel for appellant that the appellant-Bank be given an opportunity to deal with the respondent's objections and pass a fresh order in disciplinary proceedings. Such liberty is accordingly granted.

12. With this modification in the impugned judgment of the learned Single Judge, this appeal stands **disposed of**. The competent authority of the appellant-Bank shall be at liberty to pass fresh reasoned

order after considering the objections of the respondent **within a period of six weeks.**

13. All pending applications in this case are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[KULDEEP TIWARI]
JUDGE

July 30, 2025
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<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>