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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1623/2020

KAILASH CHAND GUPTA .....Petitioner

Through: Mr. Harssh Bhatia, Advocate.

versus

PUNJAB NATIONAL BANK .....Respondent

Through: *Appearance not given.*

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 13.03.2026

1. The Petitioner joined the Respondent Bank in 1977 as a clerk-cum-cashier and, over the course of nearly four decades of service, rose to the post of Deputy Manager. He was due to retire on 31st March, 2016, but was dismissed from service few days before that. By the present petition under Article 226 of the Constitution, he challenges the disciplinary proceedings culminating in the penalty of dismissal by order dated 28th March, 2016, which was affirmed in appeal on 23rd June, 2016 and thereafter in review on 28th February, 2017.

Facts

2. The broad facts are not in serious dispute. On 1st January, 2016, the Bank served upon the Petitioner a communication enclosing a special investigation report and calling upon him to explain allegations of fraudulent misappropriation of Bank funds. The investigation material tabulated transactions sheet-wise, account-wise and amount-wise, and ultimately

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aggregated the figure at INR 3,25,026.66/-. It referred to credits routed through sundry and other accounts and traced individual entries into identified accounts.

3. The Petitioner replied on 15th January, 2016. That reply assumes importance. He stated that the transactions mentioned in sheets 1 to 8 were either done by him or were within his knowledge. He also accepted direct or indirect involvement even in entries not personally posted by him. At the same time, he stated that the amounts had been recovered from customers or beneficiaries, stood deposited in the sundry account on 2nd November, 2015, and that no loss had remained with the Bank. He then sought sympathetic consideration in view of his long service.

4. Thereafter, a charge-sheet dated 2nd March, 2016 was issued. Article I alleged that the Petitioner had misappropriated Bank funds while working at BO Udhna Road, Surat and various branches, and treated the conduct as misconduct under Regulation 3(1) read with Regulation 24 of the Punjab National Bank Officer Employees' Conduct Regulations, 1977. The imputations were not singular or isolated. They set out multiple heads of transactions, including credits into identified savings accounts and other accounts, with specific transaction references and amounts.

5. On 4th March, 2016, the Petitioner submitted a written response to the charge-sheet. In that response, he expressly admitted all charges mentioned in the charge-sheet, again stated that the amounts stood recovered and deposited with the Bank, asserted that there was no loss, sought sympathetic consideration, and went further to request that the constitution of a departmental enquiry itself be waived.

6. On 5th March, 2016, the disciplinary authority appointed an enquiry

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officer and a presenting officer and directed that a regular enquiry be held under Regulation 6. The order also referred to the Petitioner's right to seek assistance of another officer employee within seven days, while directing the presenting officer to supply documents within ten days. On the same date, the enquiry officer issued a memorandum fixing the preliminary enquiry for 9th March, 2016 at Surat.

7. The proceedings dated 9th March, 2016 record that the procedure was explained to the Petitioner and that he was asked whether he pleaded guilty to the charges contained in the charge-sheet. He accepted all the charges, including the grouped heads set out in the proceedings, whereupon the enquiry was concluded. The position did not change thereafter. On 14th March, 2016, the Petitioner sent an email once again admitting all the charges in the charge-sheet, stating that the amount had been recovered and deposited, and seeking sympathetic consideration.

8. By order dated 28th March, 2016, the disciplinary authority recorded that the Petitioner had admitted the charges and that the amount involved had since been recovered. Even so, it held that the misconduct struck at the Petitioner's honesty and integrity and, therefore, warranted the penalty of dismissal from service. The appellate authority, by order dated 23rd June, 2016, affirmed that view, holding that the Petitioner had not denied misappropriation of Bank funds by debiting various heads and that recovery of the amount, or the absence of ultimate loss to the Bank, did not lessen the seriousness of the admitted charge. The reviewing authority, by order dated 28th February, 2017, concurred and added that the Petitioner's plea that he had admitted the charges in the expectation of sympathetic treatment was immaterial once the proved misconduct bore directly on his integrity.

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Contentions

9. On behalf of the Petitioner, the principal submission is directed towards the proportionality of the penalty imposed. It is urged that the punishment of dismissal is unduly harsh in the facts of the case, particularly having regard to the circumstances relied upon by the Petitioner. Emphasis is placed on the fact that the amount in question had already been recovered and deposited with the Bank and that no ultimate financial loss had been caused. The Petitioner had served the Bank for nearly four decades and was on the verge of retirement when the disciplinary proceedings culminated in the order of dismissal. The charges were accepted by him in the expectation that a sympathetic view would be taken in light of his long service and the recovery of the amount involved. Therefore, the extreme penalty of dismissal is disproportionate and that, at the least, the Petitioner ought not to have been deprived of his terminal benefits.

10. The Respondent Bank, on the other hand, submits that the disciplinary proceedings suffer from no infirmity warranting interference under Article 226 of the Constitution. The Petitioner admitted the charges not merely once but repeatedly, including in his reply to the investigation report, in his written response to the charge-sheet, during the departmental enquiry proceedings, and again in a subsequent communication. The admitted misconduct involved misappropriation of Bank funds over a period of time through entries in various customer accounts, and such conduct strikes directly at the honesty and integrity expected of a bank officer. The mere fact that the amount involved was subsequently recovered, or that the Bank ultimately suffered no financial loss, does not dilute the gravity of the misconduct. Reliance, in this regard, is placed on the Supreme Court

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judgement in ***Disciplinary Authority-Cum-Regional Manager & Ors. v. Nikunja Bihari Patnaik.***[1] The allegation that the Petitioner admitted the charges under pressure from his superiors is denied and is described as an afterthought raised for the first time in the present proceedings.

11. The Respondent has also raised preliminary objections as to territorial jurisdiction and delay and laches. Those objections are not insubstantial. Even so, this Court does not consider it necessary to return a final finding on them, because the writ petition fails on the merits even if maintainability is assumed in the Petitioner's favour.

Analysis

12. The first principle concerns the limited scope of judicial review in disciplinary matters. A writ court does not sit in appeal over departmental findings. Its scrutiny is confined to examining whether the enquiry was conducted by a competent authority, whether the prescribed procedure was substantially followed, whether the principles of natural justice were observed, whether the decision-making process was vitiated by irrelevant considerations, or whether the finding is unsupported by any evidence. It is not for the writ court to reappraise the evidence as though it were hearing a first appeal.[2]

13. The second principle relates to punishment. The choice of penalty lies primarily within the domain of the disciplinary authority. Judicial interference is warranted only where the punishment is so disproportionate to the established misconduct as to shock the conscience of the Court, or where it is plainly out of proportion to the gravity of the charge proved.

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[1] (1996) 6 SCC 69.

[2] ***Deputy General Manager (Appellate Authority) v. Ajai Kumar Srivastava*** (2021) 2 SCC 612.

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Even in such cases, the writ court proceeds with caution and restraint.[3]

14. Tested on that standard, the present case discloses no ground for interference. The finding of guilt cannot be described as unsupported, far less as resting on no evidence. The record contains repeated admissions by the Petitioner at more than one stage. The reply dated 15th January, 2016 preceded the charge-sheet. The reply dated 4th March, 2016, furnished after service of the charge-sheet, admitted all charges. The proceedings dated 9th March, 2016 record a plea of guilt to all the grouped charges. The email dated 14th March, 2016 reiterates the same position. Even in the departmental appeal and the review petition, the Petitioner did not disown the transactions as such, but sought relief principally on the basis of recovery of the amount, absence of loss to the Bank, long service, and a plea for sympathetic consideration. This is, therefore, not a case in which guilt has been pieced together through a doubtful or attenuated chain. It is a case in which the Petitioner repeatedly accepted the substance of the charge.

15. The contention that the admissions were made under pressure, or on an assurance that the enquiry was only a formality, also does not carry the matter any further. The record may indicate that the Petitioner hoped for sympathetic treatment; it does not establish coercion. The two are not the same. An admission made in the expectation of leniency does not, for that reason alone, become involuntary or null and void. In the absence of any contemporaneous protest, immediate retraction, or other material capable of showing compulsion, this Court finds no basis to discard the repeated admissions appearing on the record.

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[3] ***Jai Bhagwan v. Commissioner of Police*** (2013) 11 SCC 187; ***Dev Singh v. Punjab Tourism Development Corpn. Ltd.*** (2003) 8 SCC 9.

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16. It is true that the departmental process moved with unusual speed. The order dated 5th March, 2016 referred to seven days in relation to defence assistance and ten days in relation to supply of documents, yet the preliminary enquiry was fixed for 9th March, 2016 itself. In a contested case, that sequence may have called for closer scrutiny. This case, however, stands on a different footing. Before the hearing of 9th March, 2016, the Petitioner had already admitted all the charges in writing and had himself sought waiver of the enquiry. At the hearing, after the procedure was explained, he once again pleaded guilty. The email dated 14th March, 2016 only reaffirmed that position. In these circumstances, no real prejudice can be said to have been caused by the compressed schedule.

17. That brings the Court to proportionality. The Petitioner stresses three circumstances: the amount stood recovered before the charge-sheet, the Bank ultimately suffered no loss, and he was close to superannuation after long service. Those are matters that may evoke sympathy. They do not, by themselves, compel interference in a banking case founded on admitted financial misconduct. The Supreme Court has repeatedly held that a bank officer is expected to maintain the highest standards of integrity and discipline and acting outside authority in financial matters is itself serious misconduct.[4] In the context of misappropriation, the Court has also said that such misconduct cannot be treated lightly or rewarded by reinstatement merely because later recovery has taken place and no loss was caused to the bank.[5]

18. The Petitioner was not a low-level functionary working at the margins

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[4] ***Chairman and Managing Director, United Commercial Bank and Ors. v. P.C. Kakkar*** (2003) 4 SCC 364; ***Union Bank of India v. Vishwa Mohan*** (1998) 4 SCC 310.

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of the banking system. He was serving as Deputy Manager. The charge related to financial transactions routed through banking heads and accounts over a period of time. In such an office, breach of trust cannot be tolerated. It is the foundation of the employment itself. Once that foundation stands shaken, the writ court does not ordinarily substitute its own sense of compassion for the disciplinary authority's judgment. On the present record, dismissal cannot be called shockingly disproportionate.

19. For these reasons, no ground for interference is made out. The writ petition is accordingly dismissed.

20. It is, however, clarified that if the Petitioner claims any statutory amount that remains payable to him notwithstanding the dismissal, it shall be open to him to make a representation confined to that limited issue. If such a representation is made within four weeks, the Respondent Bank shall examine it strictly in accordance with the applicable rules and pass a reasoned decision within eight weeks thereafter.

21. Pending applications, if any, shall stand disposed of.

SANJEEV NARULA, J

MARCH 13, 2026/*hc*

[5] ***Disciplinary Authority-Cum-Regional Manager & Ors. v. Nikunja Bihari Patnaik*** (1996) 6 SCC 69.

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