
(2014) 07 P&H CK 0556

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 20299 of 2011

Rattan Lal Garg

APPELLANT

Vs

Corporation Bank

RESPONDENT

Date of Decision: July 25, 2014

Acts Referred:

- Constitution of India, 1950 - Article 226, 32

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: R.K. Malik, Senior Advocate and Tejpal Dhull, Advocate for the Appellant; Vikas Chatrath, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Sabina, J.

Petitioner has filed this petition challenging the inquiry report dated 3.3.2010 (Annexure P-2), punishment order dated 28/30.7.2010 (Annexure P-4) and appellate order dated 20.6.2011/8.11.2010 (Annexure P-11).

2. Case of the petitioner, in brief, is that he joined the respondent-bank in the year 1977 and had unblemished record of service. On 17.10.2008, Brij Lal Meena was entrusted with the duties of Cashier. At about 2.30 P.M., Brij Lal Meena received a phone call regarding illness of his son and he requested the petitioner for permission to go to his native place. Petitioner deputed Meena Kumari to handle the duties of the cashier. Brij Lal Meena, after counting the cash, handed over the charge to Meena Kumari. At the end of the day, Meena Kumari found that there was excess cash to the tune of Rs. 35,000/-. Despite efforts, the difference could not be tallied and the amount of Rs. 35,000/- was kept in double lock almirah. However, petitioner received charge sheet dated 1.8.2009. The inquiry officer vide his report, held that the charges against the petitioner stood proved as he had kept excess cash in his possession. The punishing authority vide impugned order Annexure P-4,

imposed major penalty on the petitioner i.e. removal of service. Appeal filed by the petitioner against the said order was dismissed. Hence, the present petition by the petitioner.

3. Learned senior counsel for the petitioner has submitted that it was a case of no evidence. The amount in question had been kept in double lock almirah and it could not be said that petitioner was solely responsible for the excess cash in question. Management witness MW-2 had categorically stated that the excess cash was kept in double lock. However, the inquiry officer proceeded to hold that petitioner was guilty of the charge framed against him. Since it was a case of no evidence, the impugned orders are liable to be set aside. In support of his arguments, learned senior counsel has placed reliance on [Kuldeep Singh Vs. The Commissioner of Police and Others](#), wherein it was held as under:-

It is no doubt true that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the enquiry officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority.

4. Learned counsel for the respondents, on the other hand, has opposed the petition and has submitted that petitioner had failed to account for the excess cash. Petitioner had participated in the inquiry proceedings. As per the evidence on record, the inquiry officer came to the conclusion that the charges levelled against the petitioner stood proved. Therefore, the punishment awarded to the petitioner was liable to be upheld.

5. The scope of judicial review regarding interference with punishment order is very limited. The jurisdiction of this Court is only to see the method/manner of awarding punishment. The Court is only concerned with the procedure adopted by the Punishing Authority. If the procedure adopted by the Punishing Authority is according to rules and natural justice, then no interference with the punishment order is called for. This Court cannot go into the merits of the case. In case, the finding of the Inquiry Officer is based on some evidence, then this court cannot re-appreciate the evidence or weigh the same like the Appellate Authority. So long as there is some evidence in support of the conclusion arrived at by the departmental authority, the same has to be sustained. Some defect in the inquiry has to be pointed out before this Court can interfere with the punishment order. Further more, if defect is pointed out then the delinquent employee has to show as

to what prejudice has been caused to him on account of the said defect.

6. In the present case, petitioner was an employee of the respondent-bank. The allegation against the petitioner is that while he was working as Branch Manager/Senior Manager at Panipat Branch, he had kept in his personal custody excess cash amounting to Rs. 35,000/- and the same was reimbursed only on 1.1.2009. Inquiry officer was appointed to look into the allegations levelled against the petitioner. The inquiry officer vide report Annexure P-2 held that the charges levelled against the petitioner stood duly proved. Inquiry officer has noticed that on 17.10.2008, at the time of closing the cash at Panipat Branch, excess cash amounting to Rs. 35,000/- was reported by Meena Kumari. On 18.10.2008, the said excess cash was taken out by the petitioner from the bank's safe and was kept in his personal custody till the matter was reported to Zonal Office, Chandigarh by Meena Kumari on 1.1.2009. Thereafter, the amount was deposited by the petitioner in Sundry Creditor's account on 3.1.2009. It is also evident from the enquiry report that petitioner had duly participated in the inquiry. It was noticed by the inquiry officer that the key movement register had not been updated when he visited the branch on 3.1.2009. Thus, on the basis of material/evidence on record, the inquiry officer has concluded that the charges levelled against the petitioner were duly proved. Copy of the inquiry report was supplied to the petitioner and petitioner submitted his written submissions with regard to findings of the inquiry officer. Punishing authority after going through the material on record, observed as under:-

7. On a careful perusal of the inquiry records vis-à-vis the submissions of the officer, it is observed that in his report date 3.3.2010 the IA has discussed in detail the oral and documentary evidence adduced before him in the inquiry and based on such discussion, he has held the officer guilty of all the charges/allegations. Material evidence reveal that on 17.10.08 there was an excess cash of Rs. 35,000/- in the closing cash balance at the branch which could not be located even after exhausting efforts to locate the sources of excess cash, where upon the said excess cash was handed over to the officer which was kept in the double lock without accounting for the same in the books of the branch in violation of the extant guidelines. That the same in the books of the branch in violation of the extant guidelines. That subsequently the officer took the said excess cash of Rs. 35000/- from the Bank's safe and continued to keep the same which himself even after repeated request of Ms. Meena Kumari the cashier in whose hands the excess cash was located on the relevant day, to incorporate and account that said excess cash in the cash receipts. That it was only after Ms. Meena Kumari addressed a letter dated 1.1.09 to Zonal Officer, Chandigarh raising alarm about accounting the excess cash that the officer chose to credit the amount to FRMD HO on 3.1.09. It is on record that during cross examination MW-1 clarified that before proceeding to Panipat Branch to carry on preliminary investigation in the matter the officer informed MW-1 that the officer was receiving telephonic requests regarding the excess cash and in the said circumstances depositing the excess cash to FRMD, HO and again getting back the

credit from the Head Office is a time consuming matter and as such the officer had not deposited the excess cash to FRMD HO. The material evidence clearly establish the fact that the excess cash was in the personal custody of the officer did not account excess cash amounting to Rs. 35000/- found on 17.10.08. The evidence on record also show that the officer allowed Sh. B.L. Meena the officer handling cash department on 17.10.08 to leave the branch without tallying the cash and also failed to update double lock key register and in this way he acted in gross violation of extant guidelines in the matter of handling cash holding excess cash and accounting of cash. It is not a mere omission to account excess cash of Rs. 35000/- received at the branch. Even after the alarm was sounded by Ms. Meena Kumari the officer did not take steps to return the amount, which is nothing but Banks fund till 1.1.09. It cannot therefore, be concluded that the officer acted bonafide. The officer was the Branch Manager of Panipat Branch at the relevant time. I do not find any substance in the various submissions made by the officer.

8. In view of the above and on an independent analysis of the evidence on record, I am convinced with the reasoning and the findings of the fact recorded by IA. As such, I concur with the findings of IA and accordingly hold the officer guilty of this allegations/charges as established in the inquiry.

7. Against the punishment order, whereby petitioner was ordered to be removed from service, petitioner preferred an appeal. The appeal authority, after going through the record, observed as under:-

The inquiry records show that Ms. Meena Kumari who was working as Cashier at Panipat Branch where the impugned incident occurred and where the appellant was the Branch Manager at the relevant period, had handed over cash of Rs. 35000/- to the appellant that was found excess, while closing cash on 17.10.08 and that the said cash was kept in double lock on the said day, without accounting for the same in the books of Panipat Branch. That subsequently the appellant took the said excess cash from the Bank's safe and kept the same with himself even after repeated requests of Ms. Meena Kumari to incorporate and account the said excess cash in the branch books and that it was only after addressing a written complaint dated 1.1.09 by Ms. Meena Kumari to Zonal Office, Chandigarh raising alarm about non accounting of the said excess cash, the appellant chose to credit the amount to FRMD HO on 3.1.09. This would indicate that the excess cash which should have been credited to FMD, HO either on 17.10.08 or at least on the next working day as per rules of the bank was not adhered to by the appellant and instead he kept the cash within himself till 3.1.09. It is also seen from inquiry records that the attempt of the PO to examine Ms. Meena Kumari in the inquiry scheduled on 27.11.09 at Chandigarh proved futile as the said witness was reportedly indisposed and unable to attend the inquiry and as such the inquiry was adjourned to 21.12.09. Nevertheless, Ms. Meena Kumari could not attend the inquiry on 21.12.09 also due to her indisposition and in the circumstances the said witness came to be dropped

by PO. It is also observed that the defence has not insisted for production of the said witness, at that stage. Nevertheless the evidence on records of the inquiry corroborate the contents of the letters dated 1.1.09 and 3.1.09 of Ms. Meena Kumari was addressed to Zonal Office, and the same was entrusted to MW-1 as a source material for investigation. Later during investigation, another letter dated 3.1.09 was given by her to MW-1 and the said witness has confirmed the same during inquiry. The contents of both letters confirm that the excess cash found on 17.10.08 was not accounted by the appellant but was kept with himself. In the domestic inquiry, MW-1 has confirmed the veracity of the contents of the letters as well as the identity of the author of the letter. Such being the facts, there is no merit in the various contentions of the appellant that the IA/Disciplinary Authority had ignored the material evidence or regarding the above two letters of Ms. Meena Kumari.

8. Thus, in the present case, no case for interference by this Court is made out as the inquiry officer on the basis of evidence available on record, has given the finding that the charge levelled against the petitioner was duly proved. Before passing the punishment order, petitioner was supplied the inquiry report and the pleas taken by him against the report, were duly considered by the punishing authority. The Appellate Authority after going through the record has rejected the appeal filed by the petitioner. Thus, the principles of natural justice have been duly complied in this case and the present case cannot be said to be a case of no evidence which would require interference by this Court. The judgment relied upon by the learned senior counsel for the petitioner fails to advance the case of the petitioner.

9. No ground for interference by this court is made out.

10. Dismissed.