
(2018) 05 UK CK 0107

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 659 of 2007

PANJAB NATIONAL BANK

APPELLANT

Vs

P.O CENTRAL GOVT.AND ORS.

RESPONDENT

Date of Decision : 23-05-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 05 UK CK 0107

Hon'ble Judges : LOK PAL SINGH, J

Bench : Single Bench

Advocate : Alok Mehra, V.K. Kohli, I.P. Kohli,

Final Decision : Dismissed

Judgement

1. Petitioner has approached this Court seeking the following reliefs:

i) To issue a writ, order or direction in the nature of certiorari for quashing the impugned Award dated 7.8.2001 given by the respondent no.1 and also

the impugned orders dated 24.5.1999 and 10.09.1998 passed by the appellate authority and the disciplinary authority respectively.

ii) To issue a writ, order or direction in the nature of mandamus commanding the respondent nos.2 and 3 to give all consequential benefits to the

Workman including promotion with effect from the date when he was debarred from being considered for promotion.Â

2. Brief facts of the case are that the petitioner is an Association and has filed the present writ petition in representative capacity on behalf of the

workman. Workman Sri Jaspal Khillan, a member of petitioner association, was appointed on the post of Clerk on 4.6.1986. He was posted in

extension counter Mayapur, Haridwar between the year 1992 to 1995. Subsequently, in the month of April 1995, workman J.S. Khillan was

transferred from extension counter Mayapur to the extension counter Shantikunj. Workman Jaspal Khillan, while posted as Clerk/Cashier at extension counter Mayapur, committed forgery by drawing ` 15,000/- towards loan from Fixed Deposit Account of one account holder Smt. Ram Pyari and her son Hem Chand. In this process, he made fraudulent signature of Smt. Ram Pyari Devi and withdrew ` 15,000/- without her knowledge. On 7.7.1994, when Smt. Ram Pyari Devi arrived at the counter to obtain receipt of her F.D., she was told that loan has been taken against the F.D., therefore, receipt cannot be issued to her. On this, she made hue and cry. Workman Jaspal Khillan, sensing trouble, withdrew Rs. 45,000/- from his joint account with his mother Smt. Katuri Devi on 8.7.1994 and deposited ` 15,000/- in the account of Smt. Ram Pyari. His conduct of illegally drawing Rs. 15,000/- from the account of Smt. Ram Pyari by forging her signature was taken to be a grave misconduct inviting disciplinary enquiry and penalty as per provisions contained in para 19.5 (d) and 19.5 (i) of the Bipartite Settlement. A charge sheet was issued to him and domestic enquiry was conducted. Workman submitted his reply and denied the allegations levelled against him. Inquiry Officer recorded findings of not guilty and submitted his report dated 23.9.1996. The Regional and Disciplinary Authority did not agree with the findings of the inquiry officer and accordingly a show cause notice was issued to the petitioner on 02.03.1998. Petitioner submitted his reply to the show cause notice on 18.04.1998. On considering reply of the workman and perusing material on record, the Disciplinary Authority found the charges against the workman, fully proved, and imposed punishment of stoppage of one increment with cumulative effect upon the workman vide order dated 29.12.1997.Â

3. Feeling aggrieved by the order of punishment, workman preferred an appeal before the before the Punjab National Bank Zonal Office, Meerut.

Vide order dated 24.5.1999, appellate authority dismissed the appeal. Being aggrieved by order dated 24.5.1999, petitioner in a representative capacity raised an industrial dispute, which was referred to the Industrial Tribunal â?" cum- Labour Court, Lucknow, vide reference dated 30.05.2000.

Following reference was made by the Central Government:

â??Whether the action of the Management in imposing the penalty of â?? Stoppage of one increment with cumulative effectâ?? of Shri Jaspal

Khillan, Clerk, is just, fair and legal? If not, what relief the workman concerned is entitled to and from what date?â??

4. Learned Presiding Officer, Labour Court, vide judgment and award dated 7.8.2001, dismissed the reference and recorded the findings that the

punishment on the fact of it, is on lower side, if viewed in light of grave misconduct involving forgery, etc. Being aggrieved with the judgment and

award dated 7.8.2001, petitioner has filed the present writ petition.Â

5. Learned counsel for the petitioner would submit that the Inquiry Officer, after considering the entire evidence and material on record, had submitted

his detailed report, and had found the workman not guilty of the charges, even then the disciplinary authority, issued a show cause notice to the

petitioner and thereafter proceeded in the matter and inflicted punishment of stoppage of one increment with cumulative effect upon the workman.Â

6. Per contra, Mr. V.K. Kohli, learned Senior Counsel would submit that on receipt of inquiry report, Disciplinary Authority issued a show cause

notice to the workman and considering the reply submitted by the workman to the show cause and the other material available on record, disciplinary

authority has passed the impugned order of punishment. Learned Senior Counsel would further submit that the workman has indirectly admitted the

charge levelled against him, inasmuch as, when the lady Smt. Ram Pyari raised hue and cry in the bank, workman immediately withdrew Rs. 45,000/-

from his joint account with his mother Smt. Katuri Devi and deposited ` 15,000/- in the account of Smt. Ram Pyari. Learned Senior Counsel would

further submit that business in banks is based on trust and it is not expected from any employee of bank to withdraw amount from the account of any

customer of the bank for his personal advantage. He would further submit that considering the gravity of charges, the punishment awarded to the

workman seems to be disproportionate to the charges levelled against him. He would further submit that the Labour Court in its judgment has also

observed that the punishment awarded to the workman is on lower side. But the order of disciplinary authority has not been challenged by the

employer, otherwise it would be a case of dismissal from service.Â

7. I have heard learned counsel for the parties and perused the entire material available on record.

8. From the perusal of entire record, it would reveal that when Smt. Ram Pyari

came in the bank and raised hue and cry, the workman immediately withdrew Rs. 45,000/- from his joint account with his mother Smt. Katuri Devi and deposited ` 15,000/- in the account of Smt. Ram Pyari, which clearly admits the guilt of petitioner. The finding of the Labour Court, relying upon such admission of guilt by the workman, clearly goes to show that conclusions were drawn by the Labour Court, on the basis of materials, which existed on record. In such circumstances, it cannot be said that the award of Labour Court suffered from any illegality, perversity or any jurisdictional error. Further, it is not the case of the petitioner that rules of natural justice has been violated in the instant case.Â

9. As regard the submission made by learned Senior Counsel regarding punishment, a perusal of the charges levelled against the workman and the admission made by him that he did not deposit the money in the bank account of customer and on her raising hue and cry, he withdrew the money from his joint account with his mother and deposited the amount in that customerâ??s account, would reveal act of misconduct of the workman, which ultimately resulted in loss in faith and trust of the employer Bank in that employee as well as faith of customer on that bank. The relationship between the Bank and its employees is based on absolute good faith and trust, otherwise the banking practices would be violated resulting in loss of faith of customers in the Bank. Such act of the employee amounts to grave misconduct and has to be dealt with iron hands and major penalty should be imposed upon that employee in such case. The Honâ??ble Apex Court, in the case of S.B.I. vs. S.N. Goyal, (2008) 8 SCC 92, has taken a serious view in a case of misconduct committed by the bank employee and has held as under:

â??41.Â At the relevant point of time the respondent was functioning as a Branch Manager. A bank survives on the trust of its clientele and constituents. The position of the Manager of a bank is a matter of great trust. The employees of the bank in particular the Manager are expected to act with absolute integrity and honesty in handling the funds of the customers/borrowers of the bank. Any misappropriation, even temporary, of the funds of the bank or its customers/borrowers constitutes a serious misconduct, inviting severe punishment. When a borrower makes any payment towards a loan, the Manager of the bank receiving such amount is required to

credit it immediately to the borrower's account. If the matter is to be viewed lightly or leniently it will encourage other bank employees to indulge in such activities thereby undermining the entire banking. The request for reducing the punishment is misconceived and rejected.

10. In view of this Court, the conduct of the charged employee, in the case at hand, leads to misconduct and harsh punishment ought to have been imposed upon him but as the punishment order was not challenged by the employer and on a challenge by the charged employee, it surely cannot be imposed upon him on the principle that an appellant cannot be reduced to a position worse than the one he would be in if he had not hazarded to file an appeal.

11. The jurisdiction of the High Court under Article 226 of the Constitution of India is limited to seeing that the judicial or quasi-judicial tribunals or administrative bodies exercising quasi-judicial powers, do not exceed their statutory jurisdiction and correctly administer the law laid down by the statute under which they act. The jurisdiction of High Court under Article 226 of Constitution of India is not an appellate jurisdiction rather it is revisional in nature and only interference can be made when a subordinate court or tribunal is found to have acted without jurisdiction, by assuming jurisdiction where there exists none, or in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

12. In view of the foregoing discussion, this Court does not find any infirmity or perversity in the impugned judgment and award of the Labour Court dated 7.8.2001 as well as the orders dated 24.5.1999 and 10.09.1998 passed by the appellate authority and the disciplinary authority, which may require interference of this Court under Article 226 of the Constitution of India.

13. The writ petition lacks merit and the same is dismissed.

14. In the facts and circumstances, parties shall bear their own costs.