



2026:CGHC:21760



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AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1937 of 2022

- Jitendra Kumar Bareth S/o Shri Ijodhi Ram Bareth Aged About 36 Years Resident Of Purana Navdha Chowk, Seoni, District Janjgir Champa Chhattisgarh.

... **Petitioner(s)**

versus

1. Punjab National Bank Through Its Zonal Manager , Punjab National Bank, Zonal Office, Raipur, Plot No. 45, Sector 24, South Block, Office Complex, Behind Block A And B Tower , Atal Nagar , Post Office Mantralaya Naya Raipur, District Raipur Chhattisgarh.
2. The Assistant General Manager / Disciplinary Authority Human Resources Development Department , Circle Office, Plot No. A/48, Ring Road No. 2, Gourav Path, Near Pallav Bhawan, Mangla Road, Bilaspur, District Bilaspur Chhattisgarh.
3. The Branch Manager Punjab National Bank, Branch Manendragarh, District Korea Chhattisgarh.

... **Respondent(s)**

For Petitioner	:	Mr. Aditya Khare, Advocate
For Respondents	:	Mr. Sharad Mishra, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment On Board

8.5.2026

- 1) By way of this petition, petitioner has sought following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/ order, thereby setting aside-quashing the impugned orders dated



07.07.2021 and 05.01.2021 (Annexure P/1 & P/2) and further be pleased to direct the respondents to reinstate the petitioner in service.

10.2 That, any other relief/ order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given.

- 2) The facts in brief are that petitioner was appointed to the post of Sweeper in Punjab National Bank, Divisional Office, Medical College Road, Raipur vide order dated 26.9.2009 and his services were regularized upon completion of probation period. Subsequently, he was promoted to the post of Clerk vide order dated 1.8.2016. In March, 2019, petitioner was posted as Head Cashier at Punjab National Bank, Branch Manendragarh, District Koriya.
- 3) A complaint was made by the proprietor of M/s Sahara India alleging that petitioner failed to deposit a sum of Rs. 14,06,552/- in the bank A/c of the complainant. The aforesaid disputed amount was eventually deposited by the petitioner over several dates. Respondent-bank took cognizance and served the show-cause notice and article of charges on petitioner on 19.3.2020. Petitioner filed reply and denied the allegations and stated that neither bank nor complainant suffered financial loss.
- 4) Departmental Inquiry was initiated against the petitioner wherein he was afforded sufficient opportunity of hearing and after completion of the same, an inquiry report was submitted before



the disciplinary authority on 22.9.2020. Disciplinary authority issued a second show-cause notice on 17.12.2020 which was duly replied by the petitioner. On the basis of inquiry report, Assistant General Manager (HR)/ disciplinary authority imposed major punishment of removal from service with superannuation benefits vide order dated 5.1.2021. Petitioner preferred departmental appeal and same was dismissed by Zonal Manager vide order dated 7.7.2021.

- 5) Learned counsel for the petitioner submits that the disputed amount so deposited by the complainant was refunded by the petitioner and this fact is evident from the inquiry report. He further submits that the penalty inflicted upon petitioner is disproportionate looking to the alleged misconduct therefore orders passed by the disciplinary authority as well as appellate authority require interference by this Court.
- 6) On the other hand, learned counsel appearing for the respondent-bank submits that a full fledged department inquiry was conducted wherein article of charges was issued ; Inquiry Officer and Presenting Officer were appointed ; Bank examined its witnesses and exhibited relevant documents. He further contends that Inquiry Officer submitted its report before the disciplinary authority, who concurred with the inquiry report and inflicted the penalty of removal from services in terms of para 6 (b) of memorandum of BPS settlement dated 10.4.2002. He further submits that



petitioner never objected the departmental inquiry, rather he actively participated in it and in reply, he admitted that he refunded the disputed amount on various dates. He contends that disciplinary authority imposed the punishment taking into account the misconduct committed by the petitioner and the appellate authority meticulously considered the grounds raised by the petitioner in appeal and passed final order. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of **Union of India Versus M. Duraiswamy**¹.

7) I have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

8) The charges leveled against the petitioner are as under :-

1. You did not deposit an amount of Rs. 25000/-on 30/01/2019 deposited by Ms. Anju in her SF Account No. 3037001700071401 and issued a counterfoil without depositing the cash in the aforesaid account and misappropriate the amount.

On an enquiry by the depositor Ms. Anju on 04/02/2019, you had taken back the counterfoil dated 30/01/2019 from her which was issued earlier by you on 30/01/2019 and deposited the said amount of Rs. 25000/- in her account on 04/02/2019 and issued a cash receipt counterfoil of Rs. 25000/- afresh.

2. You did not deposit a total amount of Rs. 1406552/-deposited by M/s. Sahara India on various dates given below and misappropriated the funds :-

S. No.	Date of Deposit	Amount
1.	19/03/2018	79000/-
2.	01/05/2018	2120000/-

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3.	24/05/2018	50000/-
4.	29/05/2018	107776/-
5.	22/06/2018	70500/-
6.	22/06/2018	8000/-
7.	25/06/2018	77500/-
8.	28/06/2018	84500/-
9.	03/07/2018	413600/-
10.	13/08/2018	75000/-
11.	16/08/2018	120990/-
12.	27/08/2018	107776/-
	TOTAL	1406552/-

The matter came into the knowledge of M/s. Sahara India, when two of their cheques got bounced and immediately they approached the branch to get an enquiry about the aforesaid cash deposits. Subsequently, you deposited Rs. 100000/- on 25/10/2018 by preparing a credit voucher in your own handwriting and entered in the system from your own ID. Similarly, on 29/10/2018, you again deposited an amount of Rs. 1307000/- in the aforesaid account of M/s. Sahara India also by preparing a credit voucher in your own handwriting and entered in the system in your own ID.

Further, on 29/10/2018 Rs. 448/- and on 28/11/2018 Rs. 93597/- were deposited in the account of M/s. Sahara India as compensation towards delayed deposit.

3. You provided fabricated and forced statement of account to M/s. Sahara India to conceal your embezzlement of funds deposited by M/s. Sahara India.

4. You did not deposit the Cash of Rs. 15180/- deposited by M/s Chhabi Mahila Bachat Samuh on 22/06/2018 in their account No. 3037008700100818 running at BO: Manendragarh although you had given receipt to the customer of having deposited the amount in the account

9) It is not in dispute that petitioner failed to deposit Rs. 14.32 lakhs which was handed over to him by the complainant but



subsequently, petitioner deposited the aforesaid amount with the bank in installments. Perusal of inquiry report (Annexure R/1) would reveal that the petitioner accepted/ admitted his misconduct in the written reply dated 19.9.2020 and Inquiry Officer found the allegations proved. Disciplinary authority concurred with the inquiry report and inflicted penalty of removal from services with superannuation benefits. The penalty order was affirmed by the appellate authority as well.

10) At this stage, it would be advantageous to refer the judgment rendered by the Hon'ble Supreme Court in the matter of **M. Duraiswamy** (supra) wherein the defrauded amount of Rs. 16,59,065/- was refunded by the delinquent employee. In such a case, Hon'ble Supreme Court held that voluntary deposition of the defrauded amount by a delinquent employee which caused less or no loss to the government/ department cannot be made a ground to interfere with the order of punishment imposed by Disciplinary Authority. Relevant paragraphs 13 to 19 are reproduced herein below :-

13. In the case of B.C. Chaturvedi (supra), the High Court interfered with the order of punishment imposed by the Disciplinary Authority and substituted the punishment of dismissal from service to one of compulsory retirement on the reasoning that the employee had put in 30 years of service and that he had a brilliant academic record and that he had earned promotion after the disciplinary proceedings were initiated. Setting aside the judgment and order passed by the High Court, this Court observed that the reasoning is wholly unsupportable. Such reasons are not



relevant or germane to modify the punishment. What is required to be considered is the gravity of the misconduct. In the said case, the employee was found to be in possession of assets disproportionate to the known sources of his income. Therefore, this Court observed and held that the interference with the imposition of punishment was wholly unwarranted.

14. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, the order passed by the Tribunal, confirmed by the Division Bench of the High Court, substituting the punishment of removal to that of compulsory retirement is unsustainable. Neither the Tribunal nor the High Court have found any irregularity in conducting the departmental enquiry. No procedural lapses have been found. In fact, the respondent employee admitted the charge of having defrauded Rs.16,59,065/- and on detecting the fraud, he deposited the defrauded amount of Rs.16,59,065/- along with penal interest. But for the detection of the fraud, probably, the respondent employee would not have deposited the defrauded amount. Once, a conscious decision was taken by the Disciplinary Authority to remove an employee on the proved misconduct of a very serious nature of defrauding public money, neither the Tribunal nor the High Court should have interfered with the order of punishment imposed by the Disciplinary Authority, which was after considering the gravity and seriousness of the misconduct.
15. Merely because the respondent-employee had worked for 39 years and in those years, there was no punishment imposed and/or that he voluntarily deposited the defrauded amount along with penal interest and therefore there was no loss to the Government/Department cannot be a ground to interfere with the order of punishment imposed by the Disciplinary Authority and substitute the same from removal to that of compulsory retirement. Neither the Tribunal nor the High Court have, in fact, considered the nature and gravity of the misconduct committed by the delinquent officer. Therefore, both, the Tribunal as well as the High Court had exceeded in their jurisdiction in interfering with the quantum of punishment imposed by the Disciplinary Authority.



16. None of the grounds/reasoning on which the order of punishment of removal has been interfered with by the Tribunal and affirmed by the High Court are germane and can be sustained. Once it was found that the delinquent officer who was serving in the post office had defrauded to the extent of Rs.16,59,065/- and that too, by way of fraudulent withdrawal in as many as 85 RD accounts and by way of non-credit of deposits in 71 RD accounts, no sympathy on such an employee was warranted.
17. Being a public servant in the post office, the delinquent officer was holding the post of trust. Merely because subsequently the employee had deposited the defrauded amount and therefore there was no loss caused to the department cannot be a ground to take a lenient view and/or to show undue sympathy in favour of such an employee. What about the loss caused to the department by way of goodwill, name and fame of the department and its reliability amongst the public? By such a misconduct/act on the part of the delinquent officer, the reputation of the department had been tarnished. Therefore, in the facts and circumstances of the case, both, the Tribunal as well as the High Court have exceeded in their jurisdiction in interfering with the quantum of punishment imposed by the Disciplinary Authority and to substitute the same to that of compulsory retirement.
18. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court as well as the order passed by the Tribunal substituting the order of punishment from removal to that of compulsory retirement cannot be sustained and the same deserve to be quashed and set aside.
19. Accordingly, the present appeal is allowed. The impugned judgment and order passed by the High Court dated 30.08.2016 passed in Writ Petition No. 33303 of 2013 dismissing the same and confirming the judgment and order passed by the Tribunal dated 26.03.2013 in O.A. No. 357 of 2012 is hereby quashed and set aside. Consequently, order dated 26.03.2013 passed by the Central Administrative Tribunal, Madras Bench in O.A. No. 357/2012, by which the Tribunal substituted the punishment of removal to that of compulsory



retirement is hereby quashed and set aside. Consequently, O.A. No. 357/2012, preferred by the delinquent officer, stands dismissed and the order passed by the Disciplinary Authority imposing the punishment of removing the delinquent employee from service is hereby restored. However, in the facts and circumstances of the case, there shall be no order as to costs.

11) Hon'ble Supreme Court in the matter of ***Union of India and Others Versus P. Gunasekaran***² while dealing with the scope of interference in service matters held as under :-

12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;
- (b) the enquiry is held according to the procedure prescribed in that behalf;
- (c) there is violation of the principles of natural justice in conducting the proceedings;
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

2. (2015) 2 SCC 610



- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- (i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based.
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

14. In one of the earliest decisions in *State of A.P. v. S. Sree Rama Rao*, many of the above principles have been discussed and it has been concluded thus: (AIR pp. 1726-27, para 7)

"7.... The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent



finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

- 12) Likewise, Hon'ble Supreme Court in the matter of ***Union of India and Others Versus Datta Linga Toshatwad***³ held that penalty inflicted in a departmental inquiry can be interfered by the High Court while exercising power under Article 226 of Constitution of India if the order has been passed by an incompetent authority or if procedure to inflict the penalty has not been followed or if the penalty is disproportionate looking to the misconduct.
- 13) In the present case, petitioner failed to demonstrate that penalty order was passed by the incompetent authority or the procedure prescribed under the rules have not been followed. With regard to proportionality of penalty, in cases of this nature, dismissal from the force is a justified disciplinary action and cannot be described

3. (2005) 13 SCC 709



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as disproportionate to the misconduct alleged.

14) In view of the aforesaid discussion and the legal principles established by the Apex Court, no case is made out for interference. Consequently, the instant writ petition fails and is hereby dismissed.

15) No order as to cost(s).

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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