

(2022-3)207 PLR 387

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Anil Kshetarpal.

MOHAMMAD YAKUB KHAN – Appellant,

Versus

THE BOARD OF DIRECTORS, GURGAON GRAMIN BANK and another – Respondents.

RSA No.1490 of 2011(O&M)

(i) Bank loan - Bank Employees Working as a Field Officer - It has come on the record that while recommending the extension of loan to the various borrowers, he failed to verify the correctness of the revenue record attached in order to secure the return of the loan amount - A field officer is not only expected to be vigilant, but is expected to verify the documents submitted by the borrowers with the revenue record - The appellant cannot claim that he was only required to forward the application of the intended borrowers - He was the person who was posted in the field and was in direct contact with the borrowers - In such circumstances, being a bank official, the appellant was expected to carry out due diligence in order to protect the interest of the bank with whom he was employed - The allegations against the appellant are grave in nature - Question is whether the appellant has been involved in misconduct or not - The recovery of loan, if any, is not relevant for looking at the conduct of the appellant - Service matter. [Para 10, 11, 12]

(ii) Bank loan - Employee was posted in the field - It was his primary duty to be careful while recommending the loans - The sanctioning authority can verify the correctness of the record, only to certain extent - However, such sanctioning authority cannot be expected to verify all the records particularly when it has already been recommended by the field officer - In such circumstances, the appellant cannot take benefit of the fact that the sanctioning authority has been let off the hook - - Service matter. [Para 11]

Mr. R.K.Malik, Sr. Advocate, with Mr. Sunil Hooda, for the appellant. Mr. Vipin Mahajan, for the respondent.

Anil Kshetarpal, J. - (Oral) - (4th April, 2022) - While assailing the concurrent findings of fact arrived at by the Courts below, the plaintiff (appellant) has filed the present appeal.

2. The plaintiff was chargesheeted for various misconducts. In the disciplinary proceedings, departmental inquiry was held and charges were proved. The disciplinary authority i.e. the

Chairman of the Gurugram Gramin Bank, vide order dated 24.03.2003 removed the appellant from service with the immediate effect which shall not be a disqualification for future employment. An appeal filed by the appellant before the Board of Directors was dismissed on 29.08.2003. The plaintiff's attempt to get the order passed by the Chairman, which was affirmed by the Board of Directors has failed before the Courts below.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments passed by the courts below, along with the record which was requisitioned.

4. The learned senior counsel representing the appellant contends that the disciplinary authority relied upon the past record of penalties imposed on the appellant and therefore, the order is vitiated. He further contends that the appellant was only a recommending authority for sanction of the loan, whereas the officer who had sanctioned the loan has been let off the hook. He submits that the penalty order under challenge is discriminatory. He further contends that the bank has not suffered any loss as the amount of all the loans have already been recovered.

5. Per contra, the learned counsel representing the respondents contends that the appellant was chargesheeted for 8 charges including submitting the loan applications along with the fictitious revenue record and there are allegations that he embezzled the amount of the bank after collecting the same from the borrowers. He further contends that even in the absence of past record of the appellant, the penalty order is in accordance with law.

6. This Court has considered the submissions and analyzed the record.

7. The appellant was served with a charge-sheet dated 20.03.2002, in respect of various acts of omission and commission, which are as under:-

Charge No. 1 Recommending business loan of Rs.25000/- and crop loan of Rs.35000/- for Shri Ami Chand in violation of bank rules.

Charge No. 2 Misappropriating the monies of Shri Ami Chand, Borrower

Charge No. 3 Recommending four loans in the same family and misappropriating loan proceeds of Rs.25000/- of Shri Raj Pal

Charge No. 4 Recommending loan of Rs.25000/- for Shri Sehdev in violation of bank rules and misappropriating part of his loan proceeds.

Charge No. 5 Recommending 17 crop loans and 10 KCC loans on the basis of fictitious patwari reports and in violation of bank's lending norms.

Charge No. 6 Recommending 19 crop/KCC loans in violation of Rules and procedures of the bank.

Charge No. 7 Discourteous behaviour towards customers at Alika Branch.

Charge No.8 Misappropriation of monies of customers of Kalwari Branch

Charge No. 8 (Rs.10000/- of Shri Nathan Singh, Rs.12000/- of Shri Sube Singh and Rs.2000/- of Shri Murari Lal.

8. The disciplinary authority after granting an opportunity to the appellant and in

compliance with the principles of natural justice as well as service rules, held inquiry. As per the report of the Inquiry Officer, all the charges against the appellant were proved. The appellant was served with a show cause notice, along with copy of the inquiry report and after giving him an opportunity of explaining his conduct, the Chairman passed the order on 24.03.2003.

9. It is evident that the appellant was an employee of the bank. He was, at the relevant time, working as a Field Officer.

10. It has come on the record that while recommending the extension of loan to the various borrowers, he failed to verify the correctness of the revenue record attached in order to secure the return of the loan amount. A field officer is not only expected to be vigilant, but is expected to verify the documents submitted by the borrowers with the revenue record. The appellant cannot claim that he was only required to forward the application of the intended borrowers. He was the person who was posted in the field and was in direct contact with the borrowers. In such circumstances, being a bank official, the appellant was expected to carry out due diligence in order to protect the interest of the bank with whom he was employed. The allegations against the appellant are grave in nature. Even if the past conduct of the appellant is excluded from consideration on a technical ground, still the order passed by the authorities cannot be said to be harsh or arbitrary.

11. As regards the second argument, it may be noticed that the appellant was posted in the field. It was his primary duty to be careful while recommending the loans. The sanctioning authority can verify the correctness of the record, only to certain extent. However, such sanctioning authority cannot be expected to verify all the records particularly when it has already been recommended by the field officer. In such circumstances, the appellant cannot take benefit of the fact that the sanctioning authority has been let off the hook.

12. The last argument of the learned counsel representing the appellant is to be noted and rejected because the question is whether the appellant has been involved in misconduct or not. The recovery of loan, if any, is not relevant for looking at the conduct of the appellant.

13. The scope of interference by the Civil Court in such a matter is limited. In the Regular Second Appeal, the jurisdiction of the High Court is further narrower.

14. Hence, no ground to interfere with the concurrent findings of fact arrived at by the Courts below, is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

R.M.S. – Appeal disposed of.