



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA No.2103 of 2025 (O&M)
Date of Decision: 23.09.2025

SHAMBHU KUMAR

.....Appellant

Versus

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH AND OTHERS

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Karamjeet Sharma, Advocate,
for the appellant.

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ANUPINDER SINGH GREWAL, J. (Oral)

CM-5278-LPA-2025

This is an application for condonation of delay of 30 days in re-filing the instant appeal.

For the reasons stated in the application, the same is allowed and the delay of 30 days in re-filing the appeal is condoned.

Main Appeal

The appellant has challenged the judgment of learned Single Bench dated 09.04.2025, whereby the writ petition preferred by him challenging the award dated 22.11.2024 (Annexure P-1) passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Chandigarh (hereinafter referred to as 'the Tribunal') has been dismissed.



2. Learned counsel for the appellant submits that the appellant was denied a fair opportunity of hearing and that the disciplinary proceedings were conducted without following due procedure. The allegations of misappropriation of funds ought to have been established through cogent evidence. She also submits that an application preferred by the respondent-Bank under Section 33 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act of 1947') was not maintainable, yet the Tribunal arbitrarily allowed it on 22.11.2024. She, therefore, submits that the impugned judgment of the Single Judge is perverse, as it failed to appreciate that the main reference could not have been summarily dismissed by the Tribunal without framing preliminary issues.

3. Heard.

4. It is the case of the appellant that he was posted as a Customer Assistant and CRO (Officiating) at the Haryana Civil Secretariat Branch, Chandigarh of the respondent-Bank. During his tenure at the said branch, he opened a savings account in the name of Sh. Bansi Lal, Former Chief Minister of Haryana in the year 2013 although, Sh. Bansi Lal had expired in the year 2006 and used this account for embezzling an amount of Rs.6,26,930/-. He was placed under suspension by the Competent/Disciplinary Authority on 02.12.2015, in terms of Para 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10.04.2002. An FIR was also registered against him in 2016. Charge sheet was issued to the appellant, by the Disciplinary Authority on 08.03.2017, initiating disciplinary proceedings for



misappropriation of money. The appellant raised an industrial dispute on 05.06.2017, which was referred to the Assistant Labour Commissioner for conciliation. However, the conciliation proceedings failed, and a failure report was submitted by the Assistant Labour Commissioner on 18.12.2017. In consequence, the dispute was referred to the Tribunal, wherein the appellant challenged the charge sheet and the disciplinary proceedings initiated against him. In the meantime, the respondent-Bank filed an application under Section 33 of the Act of 1947 before the Tribunal seeking permission to continue with the disciplinary proceedings against the defaulting employees, including the appellant. The Tribunal, vide award dated 22.11.2024 (Annexure P-1), allowed the said application. Thereafter, upon completion of the disciplinary proceedings, the appellant was dismissed from service on 13.03.2025 (Annexure P-2).

5. The only issue for consideration before this Court is that whether the Tribunal was justified in rejecting the reference of the appellant as not maintainable by its award dated 22.11.2024. It would be pertinent to refer to Section 2A of the Act of 1947 which defines as to what constitutes an industrial dispute. Section 2A is reproduced hereunder for ready reference:-

“2A. Dismissal etc., of an individual workman to be deemed to be an industrial dispute.- Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any



union of workmen is a party to the dispute.”

It is manifest from the plain reading of section 2-A that an industrial dispute arises only if a workman is discharged, dismissed, retrenched or terminated from service. However, in the instant case, only the charge sheet and the disciplinary proceedings initiated against the appellant were challenged before the Tribunal.

6. It has been held by the Supreme Court in the case of ***Secretary, Ministry of Defence & Ors. v. Prabhash Chandra Mirdha***, AIR 2012 SC 2250, that generally a charge sheet, cannot be challenged as it does affect the rights of the delinquent. The only exception to this rule is that when it is manifest that the charge sheet has not been issued by the competent authority. The relevant extract of the judgment is reproduced hereunder:-

“13. Thus, the law on the issue can be summarized to the effect that charge-sheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

(emphasis supplied)

7. We are in agreement with the judgment of learned Single Bench



that no illegality was committed by the Tribunal in permitting the employer to continue with the disciplinary proceedings by allowing the application filed by the respondent- Bank under Section 33 of the Act of 1947 for the reason that Section 33(3) of the Act of 1947 expressly prohibits the employer from discharging or punishing, the delinquent employee during the pendency of any proceedings before the Tribunal.

8. It is apt to notice that the allegations against the appellant were serious in nature as while serving as Customer Assistant and CRO, he had embezzled funds by fraudulently opening a Savings Account in 2013 in the name of a former Chief Minister of Haryana, who had already expired. The Supreme Court in the case of **Deputy General Manager (Appellate Authority) and Others Vs. Ajai Kumar Srivastava AIR ONLINE 2021 SC 38** while upholding the dismissal order of the respondent had observed that the bank employees must display utmost honesty and devotion to duty. The relevant extract of the judgment is reproduced hereunder:-

“43. Before we conclude, we need to emphasize that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24th July, 1999 confirmed in departmental appeal by order dated 15th November, 1999.”

(emphasis supplied)

9. In view of the above, we do not find any illegality in the



impugned judgment dismissing the writ petition preferred by the appellant.

The Letters Patent Appeal stands dismissed.

10. All pending miscellaneous application(s) also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

23.09.2025
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No