(1993) 02 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No. 632 of 1989

A. Amarendernath APPELLANT

Vs

The Chairman, Disciplinary Authority, Saraswathi Grameena Bank and Another RESPONDENT

Date of Decision : 17-02-1993

Acts Referred:

Citation : (1993) 1 ALT 425

Hon'ble Judges : Motilal B. Naik, J

Bench : Single Bench

Advocate : C. Jagannadha Rao, for the Appellant; C. Nageswara Rao and C. Srinivasa Rao, for the Respondent

Final Decision : Dismissed

Judgement

Motilal B. Naik, J.—The petitioner seeks quashing of the order dated 7-5-1988 passed by the 1st respondent, and consequently a direction for his reinstatement into service in the respondent-bank.

2. It is the case of the petitioner that he was posted as the Branch Manager of Saraswathi Grameena Bank at Bela village of Adilabad district. The bank being a Grameena Bank, its main objective is to cater to the needs of the rural masses by way of advancing loans to agriculturists, etc. It is stated that on some false complaints, the petitioner was kept under suspension with effect from 1-10-1985 and was served with a charge-memo dated 7-11-1986 and was asked to submit his explanation within ten days. It is also stated that the charges are on five main counts and each charge contained different allegations. The petitioner is said to have submitted explanation on 21-11-1986 dealing with all the aspects. On the basis of the explanation, an enquiry was contemplated and the findings were presented on 18-6-1987. It is further stated that the enquiry was not conducted in accordance with the principles of natural justice and the petitioner had no opportunity to cross-examine the witnesses, who were examined on behalf of the respondent-bank. It is further stated that Ramesh, who is said to

have sent a complaint against the petitioner, disowned such complaint and the Enquiry Officer also held that Ramesh lacked credence. It is stated that there are several inconsistencies and infirmities in conducting the enquiry. Basing on the enquiry, a show-cause notice was served on the petitioner on 16-1-1988 on the question of imposition of penalty and the petitioner submitted a proper reply and requested the authorities not to impose extreme penalty of dismissal. The disciplinary authority, without taking into consderation the sum and substance of the charges, the enquiry report and the finding of the Enquiry Officer as against each charge, passed the impugned order dated 7-5-1988 imposing the punishment of dismissal of the petitioner from service.

3. On behalf of the respondents, a counter has been filed inter alia contending the procedure contemplated for enquiry in accordance with the settled norms. It is further stated that as against the order of dismissal dated 7-5-1988, the delinquent officer preferred an appeal to the Board of Directors of the bank, the appellate authority, vide representation dated 2-6-1988. The Board of Directors, in the meeting held on 21-9-1988, considered the appeal and reduced the penalty of ''dismissal from service'' to removal from service'', so that the petitioner may not incur the disqualification from future employment, and the same was communicated to the petitioner vide bank''s proceedings No. CON/F/34/88, dated 22-10-1988. It is further stated that as the petitioner was functioning as the manager of the bank, he was the sole authority for distributing funds to the parties; he had not conducted properly; there was misuse of funds and as the charges levelled against the petitioner are grave in nature, the respondents had no option than to issue the impugned order on the basis of enquiries and after obtaining necessary explanation from the petitioner.

4. For the purpose of examining the contentions raised by the parties, it is necessary to have a look at the charges levelled against the petitioner and the finding arrived at by the competent authority.

5. Charge No. 1 has four ingredients. The first ingredient is that one Dada Miyya, a resident of Koghor was sanctioned an amount of Rs. 5,000/-, but he was paid only Rs. 4,400/-. Therefore, the allegation against the petitioner was that an amount of Rs. 600/- due to the said Dada Miyya was misappropriated and not paid. The second ingredient is that one Meherban, son of Beem Rao, a resident of Pitgon was sanctioned crop loan of Rs. 2,000/-, which was released to him in three instalments. While making the third instalment of Rs. 600/-, only an amount of Rs. 500/- was paid to him withholding Rs. 100/-. The third ingredient is that one S.Ramesh, son of Sadasiv, a resident of Bela was sanctioned Rs. 5,000/-, but he was paid only Rs. 4,600/- though the amount of Rs. 5,000/- wasdebited. The fourth ingredient is that one Naseeruddin, son of Kutubuddin was sanctioned an amount of Rs. 4,000/- on payment of Rs. 300/- and he was released the amount in two instalments of Rs. 1,000/- and Rs. 2,700/- in full settlement by withholding Rs. 300/-. As against the four ingredients of the first charge, the Enquiry officer found the first ingredient as proved and the other

ingredients not proved.

6. As against charge No. 2, the Enquiry Officer held not proved.

7. As far as charge No. 3 is concerned, there are four ingredients. The first ingredient is that the petitioner financed C.C. loans to the borrowers though units were not in existence. The second ingredient is that he petitioner sanctioned loans to borrowers though they do not fall within the Target Group. The third ingredient is that the delinquent officer sanctioned amounts beyond the discretionary powers conferred on him in terms of circular No. ADV/5 of 1983 dated 16-3-1983 and he has not obtained the required sanction from HeadOffice for sanctioning loans beyond the permissible limits. The fourth ingredient is that the delinquent officer has failed to obtain ''No Dues Certificates'' regarding some accounts, contravening the instructions of the Head Office. As against the four ingredients of charge No. 3, the Enquiry officer held the first ingredient as proved and the other ingredients not proved.

8. Insofar as charge No. 4 is concerned, the allegation was that the delinquent officer has failed to deduct from his monthly salary loan instalments towards the purchase of vehicle and thereby wilfully tried to cause loss to the bank for his personal benefit. The Enquiry officer found this charge proved.

9. As far as the last charge is concerned, there are three ingredients. The first ingredient is that the delinquent officer has not maintained the attendance register at all. The second ingredient is that movement register and cash-in-transit register were not maintained by the delinquent officer. The third ingredient is that he has not attended to the balancing of books for a period of seven months from February, 1985 to August, 1985. As against the three ingredients of charge No. 5, the Enquiry Officer found the first and second ingredients as partially proved and third ingredient as proved.

10. Basing on the enquiry report, the Disciplinary Authority, the 1st respondent herein, made the final order dated 7-5-1988 imposing on the petitioner the punishment of dismissal from service.

11. Sri C. Jagannadha Rao, learned counsel for the petitioner, has contended that the charges levelled against the petitioner are quite vague; though some of the allegations are said to be proved, but the fact finding authority has not properly considered the explanation given by the petitioner and, therefore, this is a fitcase for interference by this Court. Even otherwise, it is contended, taking into account the allegations and the charges as proved, the punishment imposed is disproportionate to the charge levelled against the petitioner and, therefore, counsel seeks indulgence of this Court for redressal. In support of this contention, counsel for the petitioner has taken me through various decisions of the Supreme Court as well as this court on the question of disproportionality and the punishment imposed on that count and has pleaded that the impugned order deserves to be quashed; at the most lesser punishment could be imposed. He has cited the decisions in Ranjit Thakur Vs. Union of India (UOI) and Others, ,

Union of India (UOI) Vs. Parma Nanda, , Sardar Singh v. Union of India AIR 1992 SC 417 and M. Ram Mohan Rao Vs. The A.P. State Road Transport Corporation and Another, . Relying on these decisions, it is contended that as against the first charge, only one ingredient was proved viz., withholding an amount of Rs. 400/ - from out of Rs. 5,000/- sanctioned to one Dada Miyya. It is further contended that the cashier, who was in charge of distributing loans and who was also implicated in the case, was let off and reinstated into service and there is no justification in holding the petitioner alone as responsible for the acts. As far as the allegation that loans were sanctioned to borrowers though units were not in existence during the course of enquiry in 1987 is concerned, it is contended that, may be, units were not found in 1987, but the fact remains that units were existing as on the date of extending the loan facility and some of the beneficiaries also repaid amounts and, therefore, this allegation would not stand against reasoning. Insofar as the allegation that certain registers were not at all maintained and entries in the ledgers were not properly made, it is pleaded that the petitioner though new to the job was not given training; there was no sufficient staff to assist him; the Head Office though was intimated of the difficulties has not acted upon in time and, therefore, the petitioner cannot be held responsible. As far as the allegation that there was no deduction of loan amount from the monthly salary of the petitioner towards the purchase of vehicle, it is contended that though the amount was not remitted in time, but the petitioner has made good the entire amount in lumpsum during the period of his suspension. Under these circumstances, it is contended by Sri Jagannadha Rao that the respondents should have taken a lenient view and could have inflicted lesser punishment.

12. It is now well settled that if the punishment imposed by the disciplinary authority is disproportionate to the findings, Courts could interfere and jmpose a lesser punishment. In the present case, some of the charges, which are proved, would look to be not of high magnitude. Yet, the petitioner, being Branch Manager of a bank, had to deal with the village masses and sanction loans in accordance with the schemes. The allegations against the petitioner are that he has not acted properly and at times used his discretion and sanctioned loans beyond the powers conferred on him; books of account and the attendance register were not maintained and the loan amount obtained by the petitioner himself was not deducted in instalments from his monthly salary. Could all these factors be ignored by this Court to take a lenient view? Some of the charges viz., units were not existing at the time when amounts were lent to such units and lesser amounts were paid to borrowers by withholding some amounts illegally, though look to be bleak in coming to the conclusion that the petitioner has misused the office, may not exempt him from the other charges levelled against him. Further, the petitioner has failed to discharge the onerous duty cast on him viz., deducting monthly instalments from his own salary towards the loan amount obtained by him. In my view, this would be a very serious charge. If any borrower fails to pay the instalments in time, the banks always take recourse to

stringent methods like imposing penalty, initiating legal proceedings in courts for recovery, etc. The petitioner, who has failed to discharge his functions, cannot be shown any lenience when such lenience is not extended to other borrowers. As regards the other contention that the petitioner had no sufficient training as to the maintenance of books of account and there was no sufficient staff, I am afraid, this contention cannot be accepted. It was always open to the petitioner at the time of his appointment to plead before the authorities not to give him independent charge of a bank, as the responsibilities are onerous and, therefore, without training, it would be difficult for him to cope up with the day-to-day work. Having discharged his duties for some time, when discrepancies were found, it is not open to the petitioner to come out with this type of explanation in order to avoid punishment. No doubt, the decisions cited by the learned counsel for the petitioner would go to show that in given circumstances, courts could interfere and reduce the penalty if it is found that the punishment imposed is disproportionate to the charges levelled against. In my considered view, this is not a case where this Court could interfere taking into account the facts and circumstances of the case and the position held by the petitioner.

13. For all these reasons, the writ petition is dismissed. No order as to costs.

