
(1997) 01 KL CK 0040
In the High Court Of Kerala
Case No : O.P. No. 4817 of 1990

Abdul Kareem

APPELLANT

Vs

Canara Bank

RESPONDENT

Date of Decision : 28-01-1997

Acts Referred:

Canara Bank Officer Employees (Discipline and Appeal) Regulations, 1976 — Regulation 4

Citation : (1997) 2 LLJ 21

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : K. Ramakumar, for the Appellant; M.C. Sen, for the Respondent

Final Decision : Partly Allowed

Judgement

K.A. Abdul Gafoor, J.—The petitioner is an employee in the service of the respondents. He has approached this court Challenging Exts.P1, P4, P6 and P9. Ext. P1 is the charge memo issued to him initiating disciplinary action. Ext. P4 is the order passed by the disciplinary authority imposing the punishment of "censure" and recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the bank by negligence", as envisaged under Regulation 4(a) and 4(d) respectively of the Canara Bank Officer Employees" (Discipline and Appeal) Regulations, 1976. Ext.P6 is the order passed by the appellate authority confirming Ext.P4. Ext.P9 is the order passed on a review petition again confirming Exts.P4 and P6.

2. In the enquiry conducted, the petitioner was found guilty of the charges contained in Ext. P1. Thus, on its basis, the punishment was imposed.

3. As mentioned above, the punishments imposed are censure and recovery from pay, in terms of Regulations 4(a) and (d) of the said Regulations. Clause 4 of the Regulations specifies minor and major penalties. The said Regulation in so far as it prescribes minor penalty reads as follows:

"Penalties

The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons.

Minor Penalties

- a) Censure;
- b) withholding of increments of pay with or without cumulative effect;
- c) withholding of promotion;
- d) recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the bank by negligence or breach of orders".

As mentioned above, the penalty as per Clauses 4(a) and (d) above are imposed by Ext.P4. Ext.P4 specifically states so. That means, for an act of misconduct two among the four minor penalties are imposed.

4. One among the contentions raised by the petitioner is that even if the misconduct is said to be proved, the disciplinary authority cannot impose two penalties. The disciplinary authority can impose only one among the penalties which he may choose in the nature of the offence. On the other hand, by Ext.P4, for the same misconduct two penalties are imposed.

5. Ext.P4 itself shows that two penalties as mentioned in Regulations 4(a) and (d) are imposed. This is not permissible. The disciplinary authority has to choose any one of them. Therefore, on that reason itself, Ext.P4 is liable to be quashed. This aspect is not adverted to by the appellate authority or reviewing authority in Ext.P6 or in Ext.P9. So, those orders are also quashed to the extent Ext.P4 is confirmed. I do not accept the contention of the petitioner that the charge alleged against him in Ext.P4 is not proved. On the other hand, the operative portion of Ext.P4 shows that there was negligence on the part of the petitioner and by reason of negligence loss had occasioned. Though the charge levelled against the petitioner is proved, the disciplinary authority had chosen to impose only minor penalty. He had imposed two among the minor penalties. That is illegal. Therefore, Ext.P4 is quashed directing the 3rd Respondent to pass fresh orders choosing either of the said two minor penalties to impose on the petitioner.

O.P. is allowed to the above extent. No costs.