
(2012) 09 P&H CK 0201
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 18456 of 2012

Bhim Singh

APPELLANT

Vs

Haryana Gramin Bank and Another

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2012) 09 P&H CK 0201

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Advocate : Vivek Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—The petitioner who is working as scale-II officer at the Regional office of the respondent-bank, was charge-sheeted under regulation 39 of Haryana Gramin Bank (Officers and Employees) service regulations 2010 vide charge sheet dated 7.1.2012. Thereafter vide order dated 10.5.2012 (Annexure P-3), respondent No. 1 decided to hold an inquiry under Regulation 39 read with Regulation 41 and 2(g) of Haryana Gramin Bank (Officers and Employees) Service Regulations, 2010 for looking into the truth of imputation of charges leveled in the charge sheet, on the part of the petitioner. During the inquiry, the petitioner made a request to the inquiry officer to provide him/allow him to engage a legal practitioner as his defence assistance. However, the said request was rejected. The petitioner further approached the Disciplinary Authority/ respondent No. 1 vide his appeal for providing him services of a legal practitioner as his defence assistance, in terms of Regulation 44 of Haryana Gramin Bank (Officers & Employees) Services Regulations, 2010, which reads thus:

For the purpose of any enquiry under these regulations the officer of employee shall not engage a legal Practitioner without prior permission of competent authority.

2. The said appeal of the petitioner was also rejected by the Disciplinary

Authority vide impugned order dated 30.08.2012 (Annexure P-5) on the ground that the departmental enquiry was of domestic nature and as a general rule the Practitioner lawyers are not allowed to either of the party for conducting such proceedings. It was further observed that even the presenting officer of the bank was not a legally trained man i.e. a Legal Advisor/ Law officer.

3. By filing this writ petition the petitioner has challenged the order dated 30.8.2012 (Annexure P-5) on the ground that the action of the respondents rejecting his prayer is absolutely illegal and arbitrary as according to the rules, a Legal Practitioner can be allowed with prior permission of the competent Authority and thus, there being no bar in engaging a lawyer as defence assistance, the request of the petitioner should have to be accepted.

4. I have heard learned counsel for the petitioner and perused the impugned order as well as other documents placed on record of the case.

5. It is relevant to refer to the impugned order Annexure P-5 which read thus:

The captioned appeal has been preferred by you against the decision of the Enquiry officer whereupon your request for providing you a legal practitioner as your Defence Representative has been rejected.

In this regard, I have gone through the Regulation 44 of Haryana Gramin Bank (Officers & Employees) Service Regulations, 2010 regarding restriction on engagement of a legal practitioner which provides that for the purpose of any inquiry under these regulations, the officer or employee shall not engage a legal practitioner without prior permission of the Competent Authority.

Keeping in view the domestic nature of departmental inquiries, as a general rule, professional lawyers are not allowed to either party in conducting the proceedings. Moreover, it has been observed that the charge sheeted official is not entitled to be represented by a legal practitioner as the presenting officer is not a legally trained man including a law officer or a legal advisor.

In view of the above, the undersigned, in agreement of the decision of the Enquiry Officer disallow you to engage a legal practitioner as your Defence Representative in the above inquiry. Hence, your above appeal is rejected.

6. A perusal of the aforesaid order shows that under Regulation 44 of Haryana Gramin Bank (Officers & Employees) Service Regulations, 2010, the employee shall not engage a legal practitioner without prior permission of the competent Authority. It may further be noticed that as a general rule, professional lawyers are not allowed to either of the party for conducting the proceedings the same being of domestic nature. Admittedly, even the presenting officer of the respondent-bank is not a legally trained man. Further, it has not been shown as to how the impugned order is arbitrary and whimsical, as alleged.

7. In these circumstances, no exception can be taken against the impugned order.

8. Thus, this Court finds no merit in this petition. Dismissed.