

(2000) 01 MP CK 0037

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 642/91

Hariprakash Rathore

APPELLANT

Vs

Rajgarh Kshetriya Gramin Bank and Another

RESPONDENT

Date of Decision : 24-01-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 1 JLJ 412 : (2000) 4 MPHT 97

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : A.S. Kutumble, for the Appellant; Samvatsar, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—Invoking the extra-ordinary jurisdiction of this Court under Articles 226/227 of Constitution, the petitioner a dismissed employee of a Bank seeks to question the legality and propriety of his dismissal from service. In order to appreciate the grievance urged in the petition, few relevant facts need mention.

2. The respondent No. 1, is a Bank established under the Regional Rural Bankers Act, 1976 (Act No. 21/76). On 24-5-1983 (Annexure P-1) the Bank invited applications for the post of officer in the Bank. The petitioner claiming himself to be an eligible candidate applied for the said post. In the application he described himself to belong to Scheduled Tribe caste by name "Saharia". The petitioner was interviewed and was selected for the post. Accordingly on 7-12-1983 a letter of appointment Annexure P-2 was issued. This was followed by another letter dated 22-12-1983 (Annexure P-3) by which, the petitioner was appointed as an officer.

3. On 14-9-1985 (Annexure P-4) a show cause was issued by the Bank to the petitioner in which it was complained that the petitioner has given a false declaration in his application that he belongs to Scheduled Caste "Saharia"

community. It was also complained that he has submitted false certificate describing himself to belong to Scheduled Caste community. The petitioner was asked to submit the explanation failing which, it was said that he will be dismissed from service. The petitioner replied to show cause and asserted that he does belong to Scheduled Caste "Saharia" community and that the certificate submitted by him is a true and correct certificate. The Bank was not satisfied with the reply and hence by order dated 25-9-1985 (Annexure P-6) dismissed the petitioner from service.

4. The petitioner felt aggrieved by the aforementioned order of dismissal filed a writ in this Court being M.P. No. 1009/85. This Court by its order dated 4-7-1987 allowed the writ and passed following order :--

"In such circumstances the impugned order, Annexure-F, cannot be allowed to stand. It is liable to be quashed and is accordingly quashed, but it is not to suggest that the petitioner as a result of quashing of the impugned order will be entitled to reinstatement and the other consequential benefits, and that the Bank cannot hold any inquiry into the matter. The Bank may enquire into the matter and complete the inquiry within six months from the date of this order.

The petitioner should also in his own interest co-operate in expediting the inquiry. If after affording reasonable opportunity to the petitioner, on inquiry it is found that the petitioner belongs to the Scheduled Tribe, as claimed by him, then the petitioner shall be entitled to his reinstatement and the consequential benefits following therefrom."

5. Pursuant to this Court directions, the Bank on 10-11-1987 issued a charge-sheet (Annexure P-8) to the petitioner setting out in detail the charges against the petitioner. In the said charge, it was specifically mentioned that on an inquiry made from the office of (Collector Tribal Welfare Branch, Guna) which had issued the certificate in favour of petitioner, it is confirmed to the Bank that no such certificate was issued by that, otherwise and that petitioner belonged to caste Tell but does not belong to Scheduled Caste, The Bank then appointed Inquiry Officer to hold a departmental inquiry to investigate the charges levelled against the petitioner. The Inquiry Officer examined several witnesses and by its report dated 3-4-1988 Annexure R-9 held petitioner guilty of making a false declaration as also submitting a false certificate. Accordingly the petitioner was dismissed from service. Petitioner then filed departmental appeal which was also dismissed. It is then the petitioner filed this petition challenging his dismissal again before this Court. In this second round, the challenge is obviously after the departmental inquiry.

6. The return is filed by the Bank. Alongwith the return all departmental proceedings record are filed to support the impugned termination as also the departmental proceedings.

7. Heard Shri A.S. Kutumble, learned counsel for the petitioner and Shri Samvatsar learned counsel for the respondent.

8. The submission of Shri Kutumble, learned counsel for the petitioner mainly was that departmental Appellate Authority who heard the appeal did not assign any reason while dismissing the petitioner's appeal filed against the dismissal order. He also urged that even in departmental proceedings, much evidence was led by the petitioner to show that he belongs to Scheduled Caste "Saharia". This evidence according to learned counsel was enough to conclude that petitioner belongs to Saharia caste. It was, therefore, his submission that Inquiry Officer did not properly take into consideration the evidence led by the petitioner resulting in vitiating the conclusion arrived at in proceedings.

9. In reply, the submission of learned counsel for the respondent was for upholding the dismissal order as also the departmental proceedings. In his submission there was no need for giving any reasons in appeal as according to him, the issue involved in the proceedings was very limited one.

10. Having heard the counsel and perusal the entire departmental proceedings on record, I have come to conclusion that petition must fail. In my considered opinion, the charge levelled against the petitioner was quite serious one. This was a case where, the petitioner secured an appointment on the basis of false declaration and false certificate. Indeed the declaration was based on false certificate. Which was obviously filed to support the declaration. The apparent intention of the petitioner was to get an employment by describing himself as Scheduled Caste "Saharia". The very fact that the authority which issued the certificate confirmed that no such certificate was issued by their office, in my opinion, was the end of matter so far as the petitioner was concerned. In the inquiry proceedings the officer incharge of the concerning office who had issued the certificate was examined. He in clear terms said that no such certificate was issued. It was also confirmed in inquiry that petitioner does not belong to Scheduled Caste as claimed by him but he belongs to caste "Teli".

11. The argument of learned counsel for petitioner that evidence led by the petitioner was not considered has no force. Perusal of findings recorded by the Inquiry Officer unmistakably reveals that the entire evidence was taken into account by the Inquiry Officer which was led by the petitioner in support of his case.

12. The next submission of learned counsel for the petitioner was that no reasons are given by the Appellate Authority and hence the said order be set aside too has no force in the facts and circumstances of this case. True it is, that Appellate Authority is required to assign the reasons even for dismissing or allowing the appeal, but in the facts of his case, I am of the opinion that the same was not really needed. As stated supra, this was not even a case where elaborate inquiry was needed. The only question in the inquiry was whether the declaration given by the petitioner about his caste was true and whether the certificate filed by the petitioner in support of his declaration is genuine one or not. It is already noticed being an admitted fact almost that the author of certificate i.e., issuing authority when called upon to verify the genuineness,

themselves disowned the very certificate relied on by the petitioner. In view of this, no further inquiry was needed nor any elaborate order was expected from Inquiry Officer. In such circumstances there was nothing for the Appellate Authority to give reason as such to come to any different conclusion. In other words this was not a case where any factual appreciation was required to upturn the finding of Inquiry Officer.

13. In view of aforesaid discussion I do not find any merit in the petition. It is accordingly dismissed.