
(2011) 06 SHI CK 0023
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 14316 of 2008

Kamlesh Sharma

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14

Citation : (2011) 06 SHI CK 0023

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Disciplinary proceedings were initiated against the Petitioner under Rule 14 of the CCS (CCA) Rules, 1965 vide memorandum dated 5th December, 2003. Petitioner filed a detailed reply to the same. Inquiry Officer was appointed. He submitted his report to the Disciplinary Authority. The Disciplinary Authority served a notice upon the Petitioner with a copy of the inquiry report on 11th January, 2005. Petitioner filed a detailed representation to the same on 7th February, 2005. Thereafter, the Disciplinary Authority imposed a penalty of removal from service upon the Petitioner on 15th July, 2005. Petitioner preferred an appeal against the order of imposition of penalty of removal from service on 24th August, 2005 before the Appellate Authority. The Appellate Authority passed the order (Annexure A9) on 22nd December, 2005. A bare perusal of the same makes it abundantly clear that the same is neither speaking nor detailed. It is incumbent upon the Appellate Authority to consider all the pleas/grounds taken in the appeal preferred by the Petitioner against the order of imposition of penalty dated 15th July, 2005. The Appellate Authority is required to look into the matter whether the procedure laid down in the rules i.e. CCS (CCA) Rules, 1965 vide memorandum dated 5th December, 2003, has been complied and, if not, whether such compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of the justice and also to see whether

the findings of the Disciplinary Authority are warranted by the evidence on record and whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe.

2. Their Lordships of the Hon''ble Supreme Court in *Roop Singh Negi Vs. Punjab National Bank and Others*, have held as under:

Furthermore, the order of disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have assigned. If the enquiry officer had relied upon the confession made by the Appellant, there was no reason as to why the order of discharge passed by the criminal 3 Court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inference drawn by the enquiry officer apparently were not supported by any evidence. Suspicion as is well known, however high may be, can under no circumstances be held to be substitute for legal proof.

3. In *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others*, , their Lordships of the Hon''ble Supreme Court have held that the Appellate Authority must give reasons while affirming the order of lower authority.

4. Consequently, the present petition is allowed and order dated 22nd December, 2005 (Annexure A9) is quashed and set aside. The Appellate Authority is directed to rehear the appeal on the basis of the grounds/pleas raised by the Petitioner in the appeal preferred against the order dated 5th July, 2005 and to decide the same afresh, by passing a speaking/detailed 4 order, within a period of ten weeks, after the production of certified copy this judgment. Petitioner shall also be heard in person and for that purpose, separate notice shall be issued to him. The pending application(s), if any, also stands disposed of. No costs.