
(2009) 02 JH CK 0059
In the Jharkhand High Court

Kishun Mahto

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 19-02-2009

Acts Referred:

Citation : (2009) 2 JCR 326

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—In the instant writ application, the petitioner has moved for issuance of an appropriate writ for quashing the order dated 10.3.2005 (Annexure-12) passed by the Appellate Authority and the order dated 31.3.2004 (Anexure-11) passed by the Disciplinary Authority, whereby the petitioner has been punished with compulsory retirement with superannuation benefit.

2. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

3. The petitioner was appointed under the respondent-Bank on his application dated 8.4.1978 as Part-time Sweeper, and at the time of his appointment, he had submitted his School Leaving Certificate dated 5.2.1978. His service was subsequently confirmed on 8.10.1978.

4. Subsequently, sometime in January, 1986, he applied for his fresh appointment to the post of Sepoy-cum-Tea/Water boy and had also enclosed a school transfer certificate and mark-sheet along with his application. His application was considered and he was appointed to the post of Sepoy-cum-tea/Water boy. The appointment was confirmed whereafter he became a permanent employee on the post of Sweeper-cum-Sepoy at Patratu Branch of the respondent- bank on 17.7.1997.

5. Subsequently, when the respondent authorities verified the School Leaving

Certificate and other documents produced by the petitioner, they had found reason to believe that the same were forged and fake.

6. On the basis of preliminary enquiry and finding a prima facie case, charge-sheet was served upon the petitioner in contemplation of a Departmental Proceeding against him. The petitioner availed the benefit of filing his reply to the charge-sheet. The Departmental enquiry was started. The petitioner did participate in the enquiry and availed the opportunity to produce his witnesses. The Enquiry Officer, after conducting the enquiry and on appreciating the evidences on record had found one of the charges proved against the petitioner. The charge proved was that the School Leaving Certificate which was produced by him in the year 1978 and the Transfer Certificate produced by him at the time of his appointment in the year 1986 were fake and forged. Upon such finding, the Disciplinary Authority issued a second show-cause notice to the petitioner asking him to explain as to why punishment of termination from service should not be imposed against him. The petitioner filed his replies. Not being satisfied with the show-cause reply, the Disciplinary Authority by the impugned order vide Annexure-11 imposed the punishment of compulsory retirement with superannuation benefit against the petitioner.

7. Against the order of the Disciplinary Authority, the petitioner preferred an appeal before the Appellate Authority. By the impugned order dated 10.3.2005 (Annexure-12), the Appellate Authority dismissed the appeal of the petitioner.

8. Being aggrieved, the petitioner has now preferred the present writ application.

9. Learned Counsel for the petitioner submits that the impugned orders both of the Disciplinary Authority and also of the Appellate Authority, are perverse and not in consonance with the evidence on record. Referring to a specific portion of the impugned orders, learned Counsel submits that even in the observations recorded in the order, it would be manifest that the finding were recorded on the basis of conjecture and surmises and not on the basis of evidence on record. Learned Counsel further submits that the Enquiry Officer and also the Disciplinary Authority and the Appellate Authority have committed a grave error by totally ignoring the evidence of witnesses produced by the petitioner at the enquiry. These witnesses who were the retired Principal of the school and the present Principal of School where the petitioner had studied, had confirmed that the petitioner was admitted to their respective school and the School Leaving Certificate and the Transfer Certificate issued by the school, are correct and genuine.

10. Learned Counsel for the respondent on the other hand argues that the present writ application is totally not maintainable. None of the grounds advanced by the petitioner is tenable. The petitioner in this writ application cannot be allowed to agitate the dispute regarding facts which has already been settled by the Appellate Authority.

11. Learned Counsel submits that the evidence of the witnesses adduced by the

petitioner at the enquiry, have not been relied upon by the Enquiry Officer and also by the Appellate Authority on the ground that they could not affirm positively that the petitioner was in fact admitted to the concerned school from where he has purportedly obtained the certificates. Referring to the evidences of the witnesses adduced by the management, and the findings of the Enquiry Officer and the Appellate Authority, learned Counsel submits that there was no evidence to confirm that the Certificates were actually issued by the authorities of the schools concerned.

12. From the rival submission and on perusal of the impugned order, I find that both the Enquiry Officer and also Appellate Authority had dealt with the evidence on record elaborately and have considered the same and recorded their respective findings. Such findings on facts as recorded by the Enquiry Officer has also been confirmed on the basis of the evidence on record by the Appellate Authority. I do not find any perversity in the findings as recorded by the concerned authorities in the respective impugned orders. This Court cannot re-evaluate the evidence on record to record a fresh finding, in exercise of its writ jurisdiction.

13. I do not find any merit in this applications Accordingly, the same is dismissed.