
(2013) 06 AP CK 0034

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16240 of 1999

M.V. Apparao

APPELLANT

Vs

Syndicate Bank

RESPONDENT

Date of Decision : 11-06-2013

Acts Referred:

Citation : (2013) 5 ALD 535

Hon'ble Judges : B. Chandra Kumar, J

Bench : Single Bench

Advocate : Krovvidi Narasimham and Sri Hari Sreedhar, for the Appellant;
Deepak Bhattacharjee, SC. for Syndicate Bank for Respondent Nos. 1 and 3, for the Respondent

Final Decision : Dismissed

Judgement

B. Chandra Kumar, J.—This writ petition has been filed for a direction that the respondents to continue the petitioner in service till he attains the age of 60 years by setting aside the Order dated 09.04.1999 vide reference No. 1400/ZOH/PSOW/IF 110073 dated 23.04.1999. The brief facts of the case are as follows:

The petitioner had joined in the service at the Syndicate Bank on 11.07.1971 as Officer Trainee. Subsequently, he worked at various places in various capacities. He was promoted as Manager and posted as Manager of Buckinghampet, Vijayawada Branch, in July, 1982. He was also issued appreciation letters dated 09.04.1985 and 18.01.1986. Thereafter he was transferred to Nellore (Main) Branch in the year 1986 and then transferred to Calcutta (as per policy) in the year 1988. According to the petitioner, he could unearth the fraud amounting to lacks of rupees committed by the Sub-Manager at C.R. Avenue Branch. Then he was transferred to Eluru Branch in the year 1991. He has improved the performance of the said branch. He was also issued letters of appreciations on 05.05.1994 and 10.10.1994. In the year 1995, he was transferred to Vijayawada Divisional Office as Manager (Inspection). He had inspected eight branches in Gujarat State. In the year, 1998, he was transferred to Labbipet, Vijayawada

Branch as Senior Manager (Audit). According to him, there is no cause for writing any adverse remarks against him.

On 05.05.1999, the petitioner received a letter from the Deputy General Manager, Personal Section, vide reference No. 1440/ZOH/PSOW/IF 110073 dated 23.04.1999 informing him that the competent authority has formed an opinion in the public interest and in the interests of the bank that it is not desirable to continue the petitioner in service and directing him to retire from the service with effect from 22.07.1999. In continuation of the said letter, he was issued another letter directing him to retire from the service on 05.08.1999 instead of 22.07.1999. He has sent a detailed representation to the Board of Directors on 20.05.1999. As he has not received any reply, he filed the writ petition.

2. The respondents filed counter stating that grading of the branches was done on the basis of average volume of business and not on the basis of the performance of the Managers at the branch and, therefore, the petitioner's contention that Buckinghampet Branch, Vijayawada was upgraded as large branch in the region on the basis of his performance is not correct. The petitioner was in the habit of keeping the sundry advances drawn against the Transfer T.A. bill, Tour T.A. Bill, etcetera and un-adjusted for a long period. He was not submitting the bills in time as per the Bank Rules, amounting to mis-utilizing the bank/public funds. It is further contended that while working as Manager at Nellore Branch, the petitioner had taken a loan of Rs. 25,000/- committing various irregularities, on account of which, the same loan had become sticky and the bank was exposed to financial loss, which indicated that the petitioner was not discharging his delegated functions diligently. It is further contended that the Committee was constituted in terms of Regulation 19(1) of Syndicate Bank Officer's Service Regulations 1979, which, after review of the cases placed before it, recommended to the competent authority to retire the petitioner in the public interest in terms of Regulation 19(1) taking into consideration of all his performance, leave records, disciplinary proceedings etc.

3. It is also the case of the respondents that many a times the petitioner was brought under disciplinary proceedings for not settling the sundry advances drawn by him. It is further contended that the decision to recommend to retire prematurely the petitioner was taken by a duly constituted committee in accordance with the guidelines, the action of the bank is perfectly in order.

4. The learned counsel for the petitioner submitted that the petitioner was issued several appreciation letters and there is no reason to ask him to retire before attaining the age of superannuation. He referring to Regulation 19, submitted that when public interest is involved, the Bank may, at its discretion, on review by the Special Committee/Special Committees retire an Officer employee from service. It is further submitted that when the interest of bank is involved, an officer or employee can be terminated from service as per the Regulation 20, but a regular enquiry has to be conducted as per the Regulation 20. Referring to the impugned order, it is submitted that the impugned order says that the competent

authority has formed an opinion that in the public interest and in the interest of bank, it is not desirable to continue the petitioner in service and when the words "in the interest of bank" is used, the respondents ought to have proceeded under Regulation 20, but not under Regulation 19. It is further contended that the petitioner was issued several appreciation letters and there was no material to say that the petitioner was not efficient in discharging his duties.

5. The learned counsel for petitioner has referred to the judgment of the Apex Court in case of *The State of Punjab Vs. Gurdas Singh*, and also the judgment of the Apex Court in case of *Gian Singh Mann Vs. High Court of Punjab and Haryana and Another*, in support of his contention.

6. Sri Deepak Bhattacharjee, learned Standing Counsel for the respondents submitted that Special Committee had been constituted as per the Regulation 19 and committee has considered cases of several officers and having regard to their performance and basing on the charge sheets and memos issued to them, the committee had taken decision. He has also referred to the proceedings under which the petitioner was censured and where in certain proceedings some observations were made by the superior authorities. It is submitted that considering the entire past records, decision was taken in the public interest.

7. In reply, the learned counsel for the petitioner submitted that there is nothing on record to show that the committee has perused the records of the petitioner.

8. The learned counsel for the respondents submitted the decisions reported in cases of *Gian Singh Mann Vs. High Court of Punjab and Haryana and Another*, *Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another*, *Posts and Telegraphs Board and others Vs. C.S.N. Murthy* (1992) 2 Supreme Court Cases 317 and *Chief General Manager, Chief General Manager, State Bank of India, Bhubaneswar and others Vs. Suresh Chandra Behera*,

9. The only point that arises for consideration is whether the impugned proceedings are sustainable?

10. In *Dian Singh Mann's case* (supra), the apex Court observed as follows:

It (public interest) refers to cases where the interests of public administration require the retirement of a government servant who with the passage of years has prematurely ceased to possess the standard of efficiency, competence and utility called for by the government service to which he belongs.

Thus, the relevant facts to be taken into consideration is the efficiency, competence and utility called for by the officer/employee.

11. In *State of Punjab's case* (supra), the apex Court observed that an order of compulsory retirement may be interfered if the court is satisfied that the order is passed (a) mala fide or (b) that it is based on no evidence or (c) that it is arbitrary.

12. In *Chief General Manager's case* (supra), the apex Court referring to

Paragraph 19(1) of the State Bank of India Officers (Determination of Terms and Conditions of Service) Order, 1979, which is relevant in this case, observed that the High Court cannot examine for itself service record of employee and substitute its own judgment for judgment of the Reviewing Committee.

13. As seen from the proceedings, the Special Committee constituted has reviewed cases of officers who completed 55 years of age and/or 30 years of service on 26.2.1999 and finally observed as follows:

After studying the individual cases, with reference to the charge sheets, vigilance cases existing or otherwise in respect of the Officers whose names figure in the enclosure, and in accordance with the provision under regulation No. 19(1) and 19(2) of Syndicate Bank Officers Service Regulation 1979, it is decided that they shall continue in the services of the Bank till superannuation subject to good work and sound health except the following Officers.

(1) Mr. B. Ksthirvelu, Emp. No. 087285

(2) Mr. M.V. Appa Rao, Emp. No. 110073

14. Though it is not specifically mentioned that the committee has perused the records of the petitioner, but the committee specifically stated that after studying the individual cases with reference to the charge sheets, vigilance cases existing, it has taken a decision. It is true that the particulars of the records perused by the Committee have not been referred in the said order. It would have been better had the committee referred to the records at least in respect of those officers who were asked to retire prematurely. But, this Court can interfere only in case where malafides are attributed or where there is no evidence or the decision is arbitrary.

15. Now it has to be seen whether it is a case of no evidence. If it is a case of no evidence than it can be said that the impugned order is arbitrary and issued with mala fide intention. If the record shows that the competency, efficiency and utility of the officer was concerned basing on some material then, this Court cannot interfere with the impugned proceedings.

16. Sri Deepak Battacharjee, learned counsel for the respondents has referred to the proceedings dated 21.06.1994, which indicated that the petitioner was censured. He has also referred to the proceedings dated 01.10.1994, wherein it is observed that the petitioner failed to discharge the duties with utmost integrity, honesty, devotion and diligence and exhibited conduct which is unbecoming of a bank officer and thus contravened Regulation No. 3(1) read with Regulation No. 24 of the Syndicate Bank Officer Employees' (Conduct) Regulation, 1976. Issuing of above referred proceedings are not in dispute. Sri Deepak Bhattacharjee, learned counsel for the respondents has also referred to the several confidential reports.

17. In the light of above material, it cannot be said that it is the case of no evidence or mala fides have been attributed against the Special Committee. In

the circumstances, it cannot be said that the impugned order is arbitrary. It appears that, the Committee having considered the efficiency, competence and utility of the petitioner has taken a decision. In the light of above discussion, it is clear that this Court need not interfere with the impugned proceedings.

Accordingly, the writ petition is dismissed. No costs.

As a sequel, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.