
(2008) 04 JH CK 0053
In the Jharkhand High Court

Nawnit Kumar

APPELLANT

Vs

Palamau Kshetriya Gramin Bank and Others

RESPONDENT

Date of Decision : 03-04-2008

Acts Referred:

Rural Bank Officers and Employees Staff Service Regulations, 1980 — Section 4(1)(7)

Citation : (2008) 3 JCR 156 : (2009) 1 LLJ 125

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.G.R. Patnaik, J.—The petitioner in this writ application has prayed for quashing the orders dated 29.7.1994, passed by the disciplinary authority and also the order dated 23.12.1994 (Annexure-25), passed by the Appellate authority, whereby the appellate authority awarded punishment to the petitioner by way of reduction of one annual increment from his basic pay with effect from 29.7.1994 and treating the entire period as a period of suspension.

2. The petitioner was in service of the Respondent-Bank and as claimed by him, he was the General Secretary of the Bank Worker's Organisation, Daltonganj, Palamau, which was a registered body. On 14.2.1992 the petitioner alongwith five others were placed under suspension with effect from 15.9.1992. On 20.2.1992, he was served with a chargesheet by the Respondent No. 4, the General Manager of the Respondent Bank. The charges read as follows:

(a) On 13.2.1992 at about 3.15 p.m. he alongwith Rajeev Sharma. Basant Kumar, Laxmi Kumar Sharma, Bharat Bhushan Prasad, Shailendra N. Singh and Badri Narayan Pandey entered in the office of the General Manager in the matter relating to the transfer of Dilip Kumar Das in an unwarranted manner and attempted to put pressure without any authority upon the said General manager to cancel the said order of transfer.

(b) When the General Manager expressed his inability to cancel the order of

transfer of Sri Das then he alongwith other persons mentioned above became angry and threatened that if the transfer was not cancelled, then all of them would harass the said G.M. and in future if any disciplinary action was initiated against any members of the staff then he and his friends would implicate him in a number of cases and whenever he would get an opportunity either at his house or at the head office or on the roads, they all would humiliate him. He then told the G.M. that he should consider himself to be gheraod and his gherao would continue till the transfer order of Shri Das was not rescinded;

(c) On 13.2.1992 he and his friends remained absent from their work seats without the permission of any senior officers within 3.15 p.m. to 5.30 p.m. and kept the General Manager under gherao till 6.15 p.m. and they all continued to command and raise slogans such as G. Lal Murdabad, Bank Management hai hai etc., in the office of the said G.M. as a result whereof the entire atmosphere of the bank became noisy, consequently, all other staff members concentrated in front of the office of the General Manager and all work of the Bank after 3.15 p.m. came to a stand still as a result whereof police help was sought for;

(d) It is further alleged that they all put pressure on General Manager to cancel the order of transfer through one Badri Narayan Pandey an outsider. The aforesaid acts constituted misconduct under Regulations, 17, 19, 22 of the Staff Regulation Act, 1980 and clause 7 read with 4 (1) of the Palamau Regional Rural Bank Officers and employees Staff Service Regulation, 1980;

(e) After considering the aforesaid fact the petitioner was suspended w.e.f. 15.2.1992 and was directed to show cause u/s 30(1)(2) of the aforesaid service Regulation within 15 days.

3. The petitioner filed his show cause reply to the chargesheet of the respondents denying all the allegations levelled against him. The show cause replies were not accepted by the Management and the Disciplinary proceeding was initiated against him. The Enquiry was conducted by one Mridul Kr. Sinha as the Enquiry Officer. It was decided by the Management that the Chairman would be the Disciplinary authority and the Board of Directors would be the appellate authority in the said proceeding. During the pendency of the Enquiry, the suspension order of the petitioner was revoked vide office order dated 19.9.1992. The Enquiry Officer after concluding the enquiry submitted his Report with his finding that except the Charge No. 1 that the petitioner was present in the Official chambers of the General manager and the Charge No. 3 that the petitioner was found unauthorisedly absent during working hours the other charges were found not proved. A copy of the Enquiry Report was supplied to the petitioner and in response thereto, the petitioner filed his written submissions before the disciplinary authority. The disciplinary authority, however, had differed from the Enquiry Report holding that all the charges have been proved against the petitioner and accordingly, passed an order reducing two annual increments in the basic pay of the petitioner and treating the entire period as the period of suspension. The petitioner thereafter preferred an appeal before the appellate

authority. After considering the submissions of the petitioner, the appellate authority by its order dated 12.7.1994 affirmed the findings of the disciplinary authority. However, the appellate authority reduced the punishment awarded by the disciplinary authority by confining it to reduction of one annual increment with effect from 19.7.1994.

4. Mr. Prabhask Kumar, learned Counsel appearing for the petitioner has assailed the impugned order of punishment as being illegal and is violative of principles of nature justice, on the grounds, inter alia, that though a notice was issued to the petitioner by the disciplinary authority stating, therein that the disciplinary authority had differed from the findings of the Enquiry Officer but the petitioner was not informed of the reasons as to why the disciplinary authority had differed from the findings of the Enquiry Officer and thereby, the petitioner was deprived of an opportunity to submit his detailed and effective show cause replies before the disciplinary authority. Learned counsel argues that the punishment imposed by the disciplinary authority after disagreeing with the findings of the Enquiry Officer, was without any basis and the same was totally illegal. It is further argued that the appellate authority has also not considered this aspect on the pleadings of the petitioner nor any finding was recorded by the appellate authority on this issue.

5. Per contra, Mr. N. Bakshi, learned Counsel appearing on behalf of the Respondent-Bank would argue that the petitioner was found guilty of the charges levelled against him and even though such guilt was in respect of two of the several charges, which in the opinion of the disciplinary authority were serious charges and before imposing punishment, the disciplinary authority had sent a second show cause notice to the petitioner on the basis of the Report of the Enquiry Officer and thereby the petitioner was afforded adequate opportunity to submit his case before the disciplinary authority against the Report of the Enquiry Officer.

6. From the perusal of the Enquiry Report, it appears that the Enquiry Officer had recorded a detailed finding after considering the evidences and had found that only two charges have been proved against the petitioner. It also appears that the disciplinary authority in his second show cause notice had stated that he differs from the findings recorded by the Enquiry Officer and has also stated the reasons as to why he differed from the Enquiry Officer's findings. It is apparent, therefore that the petitioner was afforded opportunity to submit his detailed and effective show cause replies by the disciplinary authority. There is therefore no infirmity in this regard.

7. However, going by the findings of the Enquiry officer, the only fault of the petitioner was that he was found present in the Chambers of the General Manager and during the period of his presence there, he had absented from his duty unauthorisedly. For this fault, the impugned order of punishment as imposed by the disciplinary authority is apparently disproportionate to the guilt. Likewise, the punishment treating the entire period as the period of suspension is

wholly unjustified for the reasons that admittedly the order of suspension was revoked on 19.9.1992.

8. For the aforesaid reasons, this writ application is allowed. The impugned order of punishment as passed by the disciplinary authority as well as by the appellate authority is hereby set aside.

The matter is remitted back to the appellate authority to pass fresh order on the basis of the Enquiry Report submitted by the Enquiry Officer.