

(2021) 09 CHH CK 0017
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 1246 of 2013

R. K. Verma (Raj Kumar Verma)

APPELLANT

Vs

Chhattisgarh Gramin Bank

RESPONDENT

Date of Decision : 03-09-2021

Acts Referred:

Citation : (2021) 09 CHH CK 0017

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Sachin Tamrakar, Anuroop Panda

Final Decision : Allowed

Judgement

1. Proceedings of this matter have been taken up through Video Conferencing.
2. The petitioner by way of this writ petition is challenging the legality, validity and the correctness of the order dated 31.01.2013 (Annexure-P/1) passed by the Board of Directors, Chhattisgarh Gramin Bank, whereby the appeal preferred by the petitioner against the order of the Disciplinary Authority dated 21.12.2012 (Annexure-P/2) has been dismissed slightly modifying/reducing the punishment of reduction of post/grade from Branch Manager, Officer Grade-I (OJM), lowest stage of pay of Rs.14,500 to the Branch Manager, Officer Grade-I (OJM), pay scale of Rs.20100/- by increasing 9 stages of pay. The petitioner is also challenging the order passed by the Disciplinary Authority dated 21.12.2012 (Annexure-P/2), whereby the punishment of reduction of post/grade of lowest stage of pay of Rs.14,500 has been imposed upon the petitioner.
3. Mr. Sachin Tamrakar, learned counsel for the petitioner, would submit that the order of reduction in post/grade passed by the Disciplinary Authority, the Chhattisgarh Gramin Bank dated 21.12.2012 (Annexure-P/2) has been affirmed by the Board of Directors vide order dated 31.01.2013 (Annexure-P/1) by a non speaking and unreasoned order and the contention and submission of petitioner in the appeal has not been adverted to and no finding has been recorded and the

Appellate Authority has adjudicated nothing except affirming the order of the Disciplinary Authority, as such the appellate order is cryptic and laconic and deserves to be set aside.

4. Mr. Anuroop Panda, learned counsel for the respondents, would support the impugned orders.

5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

6. Regulation 31, 32, 33 and 34 of the Bilaspur Raipur Kshetriya Gramin Bank Staff Service Regulations 1980 (hereinafter called as 'Regulations 1980'), which governs disposal of appeal preferred by the appellant, states as under:-

"31. An officer or employee shall have a right of appeal against any order passed by an authority which injuriously affects his interest.

32. An appeal shall lie-

(a) In the case of an officer, to the Board,

(b) In the case of an employee, to the Chairman.

33. Every appeal shall comply with the following requirements-

(a) It shall be in writing and couched in polite and respectful language and shall be free from unnecessary padding or superfluous verbiage,

(b) It shall contain all material statements and arguments relied on and shall be complete in itself,

(c) It shall specify the relief desired.

(d) It shall be preferred within one month of the date of the order against which the appeal is made.

34. Appeals shall not be addressed to Directors personally and any such action shall be deemed a breach of discipline."

7. A careful perusal of the aforesaid Regulation would show that the Regulation does not provide the manner of consideration of the appeal, but since the appellate authority exercised quasi-judicial power of hearing and disposing of the appeal, the appellate authority ought to have assigned the valid reasons for rejecting the appeal and could have passed the speaking order while dismissing the appeal meeting with the grounds raised by the petitioner.

8. It is well settled position of law that the Appellate Authority in disciplinary proceeding acts in quasi-judicial capacity and order passed has to be reasoned one and showing application of mind to the question raised by the appellant and if it is not done, the appellate order is vitiated. (See Divisional Forest Officer, Kothagudem and others v. Madhusudhan Rao (2008) 3 SCC 469).

9. The Supreme Court reiterated this principle of law by observing that an Appellate Authority by deciding statutory appeal is not only required to give hearing to the Government servant, but pass a reasoned order dealing with the contention raised in the appeal. (See *Deokinandan Sharma v. Union of India and others* (2001) 5 SCC 340).

10. Even if the appellate order is in agreement with that of the Disciplinary Authority, it may not be speaking order, but the Authority passing the same must show that there had been proper application of mind in compliance with the requirement of law while exercising his jurisdiction particularly when the rules required application of mind on several factors and several contentions had been raised and he was bound to assign reasons so as to enable the Court reviewing its decision to ascertain as to whether it had applied its mind to the relevant factors which the rule required to do. (See *Narinder Mohan Arya v. United India Insurance Co. Ltd. and others* (2006) 4 SCC 713).

11. True it is that the petitioner was imposed with the major penalty of reduction of post/grade from Branch Manager, Officer Grade- II to Branch Manager, Officer Grade-I on the lowest stage of scale of Rs.14500/-, but in the appeal, the Appellate Authority vide order (Annexure-P/1) has simply held that no new fact has been brought on record, which warrants consideration and slightly reduced the punishment by increasing the pay from the lower stage of Rs.14,500 to Rs.20,100/- and the contention of the petitioner has not been considered and adjudicated. The Appellate Authority did not assign any reason as to whether the procedure laid down has been followed or not and whether it is in violation of principle of natural justice or not and provisions of the Constitution have been followed or not and whether the finding of the Disciplinary Authority is supported by the facts or not and whether the punishment is adequate or harsh and it requires interference, but no such finding has been recorded except the confirmation of punishment slightly modifying/reducing the punishment, which is not the proper way of deciding the appeal exercising quasi-judicial power of hearing the appeal under Regulation 31 of the Regulations 1980. The Board of Directors being the highest authority of the Bank has to be fair to its employees and officers while dealing with the appeal, but the Board of Directors has completely failed to perform its duty reposed by the Regulations 1980 while deciding the appeal. Accordingly, the appellate order dated 31.01.2013 (Annexure- P/1) is hereby set-aside and the matter is remitted to the Appellate Authority to consider and decide the appeal of the petitioner afresh in accordance with law by a speaking and reasoned order within a period of 60 days from the date of receipt of copy of this order.

12. The writ petition is allowed to the extent indicated herein-above. The petitioner is entitled to the cost of Rs.5,000/- from the respondent Bank.