(2012) 06 MP CK 0081

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3173 of 1997

Raghavendra Ranjan Das APPELLANT

Vs

Central Bank of India and Others RESPONDENT

Date of Decision : 28-06-2012

Acts Referred:

Citation : (2012) 3 MPJR 103

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : Sobha Menon, with Mr. C.A. Thomas, for the Appellant; H.C. Kohli, for the Respondent

Judgement

Rajendra Menon, J.—Challenging the orders of punishment imposed on the petitioner vide Annexure-P10 & P11 dated 21.9.1996, reducing the pay of the petitioner by four stages in the time scale separately in each of the order and the order passed by the appellate authority Annexure-P16 dated 1.7.1997, rejecting his appeal, petitioner has filed this writ petition. Petitioner at the relevant time in the year 1995 was working as an Accountant Scale-1 in the Satna Branch of the respondents. He was placed under suspension on 4.2.1995 and, thereafter, two charge-sheets dated 20th of April, 1995 and 14th of September, 1995 were issued to him. In each of the charge-sheets, various allegations were levelled. As far as the first charge-sheet dated 20th April, 1995 is concerned, 6 charges were alleged in the said charge-sheet. Similarly, in the charge-sheet dated 14th September, 1995, 8 charges were levelled against the petitioner. Petitioner denied the charges levelled against him and, therefore, a departmental enquiry was conducted and the Enquiry Officer submitted a report separately with regard to both the charge-sheets. On the basis of the allegations allegedly proved in the charge-sheets, the disciplinary authority passed a final order separately with regard to both the chargesheets. In the final orders passed as contained in Annexure-P10 & P11, the disciplinary authority indicated the charges, the findings recorded into the charge-sheets and imposed separate punishments for each of the charges.

2. The punishments imposed by the disciplinary authority were in accordance with punishment prescribed under Regulation 4 of the Central Bank of India Officer Employees'' (Discipline & Appeal) Regulation 1976. After indicating 14 punishments for 14 charges, two different punishment orders as indicated hereinabove were passed vide Annexure-P10 & P11 and in each of the punishment orders, penalty of Reduction of Pay by the four stages in the Time Scale was awarded.

3. As far as, the allegations levelled in the charge-sheets are concerned, the charges basically pertain to act of the petitioner in granting credits or loans to various parties in excess of the powers vested on the petitioner. Be it as it may be, after the punishments were imposed, the petitioner preferred an appeal and the appeal having been rejected vide Annexure-P16, this writ petition is filed.

4. Smt. Sobha Menon, learned Sr. Counsel took me through the material available on record, the allegations levelled in the chargesheets, the procedure followed in the departmental enquiry and made the following submissions:

5. It was contended by learned Sr. Counsel that under Regulation 4 of the Regulations of 1976, punishments are classified into two categories, they are "Minor Penalties" and "Major Penalties".

Regulation 4(a) to 4(e) contemplates various minor penalties and from Regulation 4(f) to Regulation 4(j), various major penalties are contemplated. It was pointed out by her that in this case, punishments imposed is contrary to the mandate of the aforesaid regulation. It is stated that initially for each of the charges said to have been proved, the disciplinary authority imposed a separate punishment. It is pointed out that with regard to charge-sheet dated 20th of April, 1995, with regard to Charge No. 1, punishment of reduction of pay by two stages in the time scale was imposed, the same punishment of reduction of pay by two stages in the time scale was imposed with regard to Charge No. 2 also. As far as Charge No. 3 is concerned, punishment of "Censure" was imposed, with regard to Charge No. 4, petitioner was exonerated by this charge. With regard to Charge No. 5, punishment of Censure was imposed and finally with regard to Charge No. 6, major penalty of stoppage-of one increment with cumulative effect was imposed.

6. After the punishments were so ordered, a consolidated punishment order Annexure-P10 was issued and a amalgamated penalty of reduction of pay by four stages in the same pay scale without any indication as to whether reduction is permanent in nature or not is imposed, learned Sr. Counsel argued that the manner, in which the punishments are imposed and finally the consolidated and amalgamation of the punishments done, has the effect of imposition of both minor and major penalty, the same is illegal and contrary to the law laid down in the case of the Union of India (UOI) and Another Vs. S.C. Parashar,

7. Similarly, with regard to the second charge-sheets dated 14th September, 1995, learned Sr. Counsel argued that for the 8 charges levelled against the petitioner, 8 different punishments have been imposed, which are punishment of Censure, Reduction of Pay in the Time Scale and stoppage of one increment with cumulative effect. Finally for this charge-sheet also an amalgamated and consolidated order is issued imposing punishments of Reduction of Pay by 4 stages again without any indication as to whether the Reduction is permanent in nature or not, whether the pay scale will be restored or not and whether the Reduction is for a particular period or not. Referring to the punishments and the fact that the punishment of Reduction of Pay by four stages without any indication of the period, for which it is imposed is not contemplated in the regulation, learned Sr. Counsel prays for interference into the matter.

8. Accordingly, the first ground of attack to the impugned order is that punishment being contrary to the provisions of regulation is unsustainable. Subsequently, it was argued by referring to the procedure followed in the departmental enquiry that the procedure contemplated in the regulation for holding the departmental enquiry was not followed and as the enquiry is in violation to the procedure prescribed in the regulation, the enquiry stands vitiated. Various judgments in support, thereof, were also cited.

9. It was thereafter, argued that the petitioner submitted a detailed appeal indicating various grounds, the appellate authority rejected the same without application of mind and without considering the grounds raised by the petitioner in the memorandum of the appeal. It is argued that the manner in which the appeal is decided, the same cannot be upheld. It is submitted that the appeal has been decided without considering the grounds raised by the petitioner and, therefore, the same is unsustainable.

10. In support of the aforesaid contention also, various judgments of the Supreme Court and this Court have been pointed out. Finally, it was argued that during the enquiry, certain relevant documents which were necessary were not produced and, therefore, this also vitiates the departmental enquiry. Accordingly, contending that the action taken against the petitioner is not in accordance with law and the same is illegal, learned Sr. counsel prays for interference into the matter.

11. Shri H.C. Kohli, learned counsel for the Respondents/Bank refuted the aforesaid and submitted that as the punishment imposed upon the petitioner is only a minor punishment, it does not amount to consolidation and amalgamation also and, therefore, challenge to the same is unsustainable, thereafter, refuting the contentions with regard to non-grant of opportunity and procedural irregularity in the conduct of the departmental enquiry. It is contended that the impugned action is taken after due consideration. Shri H.C. Kohli refuted each and every contention of learned counsel for the petitioner and brought to the notice of this Court various judgments in support of his contention as per the list supplied at the time of hearing. Learned counsel argued that as the petitioner

has committed misconduct and as the punishment imposed is in accordance with provisions of the regulation, no interference is called for.

12. I have heard learned counsel for the parties at length and perused the record. As far as the ground of attack with regard to amalgamation and consolidated of the punishments is concerned, it would be appropriate to take note of the provision of the regulation of 1976 filed as Annexure-P32 in the writ petition wherein, the statutory provisions are laid down. Regulation 4 contemplates various punishments and penalties that can be imposed on an officer against whom, allegations of misconduct are proved. The punishment are classified into two categories namely "Minor Penalties" and "Major Penalties". As far as Minor penalties are concerned, they are contained in Clause-4 (a) to 4 (e) and they reads as under:

4. The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons.

Minor penalties:

a) Censure;

b) Withholding of increments of pay with or without cumulative effect;

c) Withholding of promotion;

d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Bank by negligence or breach of orders.

e) Reduction to a lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting the Officer''s pension.

13. Similarly, Major penalties are classified from Clause-4 (f) to 4 (j) and they reads as under:

f) Save as provided for in (e) above reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the officer will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;

g) Reduction to a lower grade or post;

h) Compulsory retirement;

i) Removal from service which shall not be a disqualification for future employment;

j) Dismissal which shall ordinary be a disqualification for future employment.

(Emphasis Supplied)

14. In the present case, the punishments imposed ranges from Censure, stoppage of increment and reduction to a lower stage in the time scale of pay. Even though in Clause-4(b), withholding an increment of pay with or without cumulative effect is classified as a minor penalty, in view of the law laid down in the case of Kulwant Singh Gill Vs. State of Punjab, stoppage of increment cumulatively, which have the effect of Reduction of pay permanently is a major punishment. Similarly, with regard to reduction of pay to the lower stage of the time scale, regulation 4(e) talks about reduction of the pay for a period not exceeding three years and again it has to be without cumulative effect. The reduction with cumulative effect have the effect of permanent reduction, then again it becomes a Major punishment under Clause 4(f).

15. In view of the manner, in which the punishments are imposed, I find much force in the contentions advanced by Smt. Menon, learned Sr. Counsel to the effect that the punishments are contrary to the regulation.

16. With regard to charge-sheet dated 20.4.1995 as indicated hereinabove for each and every charge, a different punishment is imposed, the punishments are Censure, Reduction of Pay by two stages in the Time Scale and Stoppage of increment with Cumulative effect. The punishments are, therefore, both Minor and Major in nature and the Supreme court in the case of S.C. Parashar (Supra) in Para-9, 10, 11 and 12 has clearly held that amalgamation of Minor and Major penalty is not permissible and the same is illegal. Apart from the various irregularities, a consolidated order Annexure-P10 is passed with regard to charge-sheet dated 20.4.1995 and in this consolidated order, penalty of Reduction of Pay by four stages in the Time Scale is imposed, Regulation 4(e) contemplates reduction for definite period, the only punishment provided in this regulation is Reduction of pay in the time scale for a period of three years that also with a direction that the pays shall be restored after the period of three years. In the punishment order Annexure-P10, there is a permanent reduction of pay of the time scale without indicating the period, for which the reduction is to be given effect to.

17. Even though, the contention of the respondent indicates that the punishment of reduction of pay imposed is in accordance with Regulation 4(e) but the manner in which the punishment is passed, it clearly does not meet the requirement of Regulation 4(e) but it comes under Regulation 4(f). Even if it is assumed to be a punishment under Regulation 4(e), the same have the effect of reducing the pay permanently as the period of reduction of pay is not indicated and, therefore, the punishment does not meet the requirement of Regulation 4(e). It is, therefore, a case where the punishment imposed is one, which is not at all stipulated in the statutory regulation. Accordingly, learned Sr. Counsel is right in contending that apart from the fact that the punishments imposed are an amalgamation of various punishments, the same are also not stipulated in the regulation also.

18. Similar is the position with the second penalty order Annexure-P11. In this

case also, 8 allegations are contained in the charge-sheet dated 14.9.1995, different punishments ranging from Censure to Stoppage of increment with cumulative effect are imposed. Finally, as has been done earlier, the reduction of pay in the time scale is imposed, which is also contrary to the regulation as indicated hereinabove. That apart in the orders passed, it is indicated that the petitioner shall not earn increment during the period of suspension, meaning thereby, that the period for which, the petitioner had remained under suspension, he shall not earn increment for all time to come, therefore, it has the effect of withholding of increment cumulatively, another major punishment.

19. In the facts and circumstances of this case, the punishments imposed against the petitioner as indicated hereinabove are such which are not contemplated under the regulation and imposition of which is prohibited, in view of the law laid down in the case of S.C. Parashar (Supra). Once it is found that contrary to the regulation, punishments are imposed, which is not permissible under law, it is not necessary now for this Court to go into the other aspects of the matter, which were canvassed at the time of hearing.

20. Once the punishments imposed are found to be unsustainable, no further interference into the matter is called for. The petition can be allowed at this stage itself as indicated hereinabove. The appellate authority also has rejected the appeal ignoring all the factors, accordingly, this petition is allowed. The order impugned orders imposing the punishments Annexure-P10 & Annexure-P11 dated 21.9.1996 are quashed. Similarly, the order passed by the appellate authority rejecting the appeal of the petitioner Annexure-16 dated 1st of July, 1997 is also quashed, and resultantly all consequential benefits be granted to the petitioner. Petition stands allowed and disposed of.

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