
(2018) 08 PAT CK 0066

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.14658 of 2004

Raj Kumar Choudhary

APPELLANT

Vs

Central Bank of India

RESPONDENT

Date of Decision : 31-08-2018

Acts Referred:

Citation : (2018) 08 PAT CK 0066

Hon'ble Judges : MOHIT KUMAR SHAH, J

Bench : Single Bench

Advocate : Dhruba Mukherjee, Anup Chongdar, Niranjana Chatterjee

Final Decision : Dismissed

Judgement

Ref.:- I.A. No. 6354 of 2018

1. The present interlocutory application has been filed, seeking to amend the writ petition, by adding an additional prayer to the main writ petition

regarding quashing of the order dated 10.12.2004 by which the appeal of the petitioner has been rejected. I.A. No. 6354 of 2018 is allowed and it is

directed that the prayer made by the petitioner in Paragraph No. 4 of the present interlocutory application be added to the prayer made in Paragraph

No. 1 of the main writ petition.

C.W.J.C. No. 14658 of 2004

The present writ petition has been filed for quashing the order of punishment dated 04.03.2003 whereby and whereunder the petitioner has been

dismissed from service. The petitioner has further assailed the appellate order dated 10.12.2004.

2. The brief facts of the case are that a disciplinary proceeding was initiated against the petitioner and a charge-sheet dated 15.11.2001 was issued

whereby and whereunder as many as 21 charges of making fake entry and committing various irregularities were alleged as against the petitioner

herein. The inquiry officer had conducted the inquiry and submitted his detailed inquiry report dated 21.09.2002, finding most of the charges to have

been conclusively proved as against the petitioner herein. The disciplinary authority had issued a second show cause notice dated 23.01.2003 and after

taking into account the reply of the petitioner, the disciplinary authority had passed the impugned order of punishment of dismissal dated 04.03.2003.

The petitioner had then filed an appeal, which has also been dismissed on 10.12.2004.

3. The learned counsel for the petitioner has assailed the inquiry report on merits and has submitted that no evidence whatsoever has been brought

forward to prove the guilt of the petitioner qua the allegations / charges levelled against him. It has been submitted that no proof has been brought

forward by the management to conclusively establish the guilt of the petitioner herein. The learned counsel for the petitioner has referred to a

judgment rendered by the Honâ??ble Apex Court, reported in (2013) 6 SCC 602 (S.R.Tewari Vs. Union of India and Another), Paragraph No. 30

whereof is reproduced hereinbelow:

â??30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant

material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is â??against the weight of

evidenceâ??, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no

evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on

record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered

with. (Vide Rajinder Kumar Kindra v. Delhi Admn., Kuldeep Singh vs. Commr. of Police, Gamini Bala Koteswara Rao v. State of A.P. and Babu v.

State of Kerala.â??

It is contended by the learned counsel for the petitioner that in the present case, the findings of the inquiry officer is perverse since it is against the

weight of evidence.

4. Per contra, the learned counsel for the Respondents has submitted that a bare reading of the inquiry report dated 21.09.2002 as also the order of punishment dated 04.03.2003 would show that ample materials have been brought on record by the prosecution to conclusively prove the charges levelled against the petitioner herein. It is further submitted that the petitioner has, in fact, himself admitted his guilt by stating that withdrawal of money in question was allowed to Mr. Thakur in anticipation of his T / loan which was in pipeline. It is submitted that there is no rule in the banking sector to permit withdrawal in anticipation of sanctioned loan and that too without any credit voucher. It is submitted that similarly, other charges have also been proved and the petitioner has been found to be guilty. The learned counsel for the Respondents has referred to a judgment rendered by the Honâ??ble Apex Court, reported in (2011) 11 SCC 535 (Union of India and Others vs. Manab Kumar Guha), Paragraph No. 13 whereof is reproduced hereinbelow:

â??13. It is well settled that the High Court while exercising the power of judicial review from the order of the disciplinary authority does not act as a court of appeal and appraise evidence. It interferes with the finding of the enquiry officer only when the finding is found to be perverse. We are of the opinion that the Division Bench of the High Court erred in setting aside the order of the learned Single Judge and quashing the order of compulsory retirement. The finding recorded by the enquiry officer is based on the materials on record and on proper appreciation of evidence which cannot be said to be perverse calling for interference by the High Court in exercise of its power of judicial review.â??

5. I have heard the learned counsel for the parties and I find that it is a trite law that this Court while exercising the power of judicial review from the order of the disciplinary authority does not act as a court of appeal and appraise evidence and the finding of the inquiry officer can only be interfered with if the same is found to be perverse, however, in the present case, the finding of the inquiry officer cannot be said to be completely perverse and this Court finds that there are ample materials to indict the petitioner and pass the order of punishment, as such, this Court is not required to re-appraise the evidence for the findings recorded by the inquiry officer. The judgment referred to by the learned counsel for the petitioner in the case of

S.R. Tewari (supra) is of no avail to the petitioner herein inasmuch as in the instant case, neither the finding of the inquiry officer outrageously defies logic nor the finding of the inquiry officer is based on no evidence.

6. It is equally a well settled law that the scope of interference in a disciplinary proceeding is rather circumscribed for unless a delinquent is able to demonstrate that he has been denied reasonable opportunity to defend himself and / or the orders impugned reflect perversity inasmuch as it is resting on no evidence or the evidence led by the delinquent has been given a go-by, and / or the punishment imposed appears excessive to shock the conscious of a Court, there can be no interference either in the process adopted or with the orders passed thereon simply on a possible second opinion.

Reference, in this connection, be had to a judgment of the Honâ??ble Apex Court reported in (2017) 1 SCC 768 (H.P.S.E.B vs. Mahesh Dahiya).

7. This Court is of the opinion that the nature of contest in hand does not warrant this Court to delve into the sufficiency of evidence or into the quantum of punishment because a Bank Officer is a repository of public trust and thus his action has to be transparent and beyond shadow of doubt.

Reference, in this connection, be had to the judgments of the Honâ??ble Apex Court reported in (1996) 9 SCC 69 (Disciplinary Authority-cum-Regional Manager vs. Nikunja Bihari Patnaik), paragraph 7 and (2005) 7 SCC 435 (State Bank of India vs. Bela Bagchi).

8. As stated hereinabove, a bare perusal of the discussions made by the inquiry officer would show that his findings rests on tangible materials and definitely, makes out a case to indict the petitioner for his failure as a Bank Officer in discharging his duties. I do not have any doubt that the charges upheld by the inquiry officer which has led to the disciplinary authority passing the order of punishment of dismissal of the petitioner from his services as well as has led the appellate authority to confirm the punishment of dismissal are not founded on cogent materials backed by sound reasons and the same cannot be termed perverse so as to warrant any interference.

9. In the nature of the post held by the petitioner, the charges clearly tell upon his role as a Bank Officer and if the circumstances accompanying the disciplinary proceeding has persuaded the disciplinary authority and the appellate authority to inflict the punishment of dismissal on the petitioner herein, no fault can be found either in the decision making process or the

decision itself.

10. For the reasons mentioned hereinabove and having regard to the facts and circumstances of the case, I do not find any merit in the present writ petition, accordingly, the present writ petition is dismissed.