

(2021) 07 CHH CK 0098
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 4166 Of 2010

Ram Janam Kushwaha

APPELLANT

Vs

Chhattisgarh Rajya Gramin Bank

RESPONDENT

Date of Decision : 29-07-2021

Acts Referred:

Bilaspur Raipur Khetriya Gramin Bank Staff Service Regulations 1980 — Regulation 31, 32, 33, 34

Citation : (2021) 07 CHH CK 0098

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Sharmila Shinghai, Sanjay Agrawal, N.Naha Roy

Final Decision : Allowed

Judgement

1. Proceedings of this matter have been taken up through video conferencing.
2. With the consent of learned counsel appearing for the parties, the matter is heard finally.
3. The petitioner was dismissed from service by order of the disciplinary authority dated 3.9.2004 (Annexure PÂ6) finding him guilty of grave misconduct, against which, he preferred appeal under Regulation 31 of the Bilaspur Raipur Khetriya Gramin Bank Staff Service Regulations 1980 (hereinafter called as 'Regulations 1980') to the Board of Directors. The petitioner's appeal has been dismissed by the Board of Directors on 08.11.2006 and communicated to him vide order dated 14.12.2006 by the Chairman of the Bank. Feeling aggrieved against that order, the instant writ petition has been preferred by the petitioner.
4. Ms Sharmila Shinghai, learned Senior Counsel with Mr.Sanjay Agrawal, learned counsel for the petitioner, would submit that the appellate authority

has dismissed the appeal of the petitioner by non-speaking and unreasoned order and even nothing has been communicated except communication

that his appeal has been dismissed, which is not proper way of deciding the appeal exercising quasi-judicial power of hearing the appeal under

Regulation 31 of the Regulations 1980, as such, the appellate order deserves to be set aside and the matter be remitted to the appellate authority for

hearing and disposal in accordance with law.

5. On the other hand, Mr.N.Naha Roy, learned counsel for the respondents, would support the impugned order.

6. I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the records

with utmost circumspection.

7. Regulation 31, 32, 33 and 34 of the 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.

8. A careful perusal of the aforesaid Regulation would show that 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 speaking order while

dismissing the appeal meeting with the grounds raised by the petitioner as the petitioner has raised several grounds in his appeal memo, but simply informing that his appeal has been dismissed is nothing but failure to exercise the jurisdiction conferred by the Regulation Making Authority to the Board of Directors. The memo dated 14.12.2006 issued by the President of Surguja Kshetriya Gramin Bank states as under:Â?

9. It is well settled position of law that the appellate authority in disciplinary proceeding acts in quasiÂ 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).

10. 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).

11. 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 he had applied his 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).

12. Reverting to the facts of the present case, in the instant case, the appellate authority has dismissed the appeal of the petitioner by nonÂspeaking and unreasoned order and even nothing has been communicated except communication that his appeal has been dismissed, which is not proper way of deciding the appeal exercising quasiÂjudicial 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. The Board of Directors has completely failed to perform its duty reposed by the Regulations 1980 and in totally impermissible way, dismissed the appeal and communicated to the petitioner

that his appeal has been dismissed after due consideration.

13. Accordingly, the order dated 8.11.2006 communicated to the petitioner on 14.12.2006 by which the petitioner's appeal has been dismissed by the

appellate authority is hereby set aside. The matter is remitted to the appellate authority for hearing and disposal of the petitioner's appeal afresh in

accordance with law within 60 days from the date of receipt of a copy of this order by reasoned and speaking order. The petitioner is liberty to make

additional representation / to file additional submission before the appellate authority.

14. The writ petition is allowed to the extent indicated hereinabove. The petitioner would be entitled for cost of Â Rs. 5000/Â from the respondent

Bank.