

(2016) 03 SC CK 0036

In the Supreme Court Of India

Case No : Civil Appeal Nos. 3096-3097 of 2016 (Arising out of SLP(C) Nos. 2812-2813 of 2013)

Rattan Singh Sandhu

APPELLANT

Vs

Punjab And Sind Bank and another

RESPONDENT

Date of Decision : 15-03-2016

Acts Referred:

Citation : (2016) 2 LLN 561 : (2016) 3 Scale 413

Hon'ble Judges : Fakkir Mohamed Ibrahim Kalifulla;S.A. Bobde, JJ.

Bench : Division Bench

Advocate : Nikhil Jain, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

1. Heard learned counsel for the parties.
2. Leave granted.
3. These appeals are directed against the Division Bench decision of the High Court of Punjab and Haryana at Chandigarh dated 18th September, 2009 in Letters Patent Appeal No.2238 of 2006.
4. By the impugned judgment, the Division Bench while upholding the judgment of the learned Single Judge in setting aside the order of termination passed by the respondent-bank dated 31st May, 1993, as confirmed by the Appellate Authority dated 20th September, 1993, ordered reinstatement of the appellant with all consequential benefits, continuity of service including seniority etc. setting aside that part of the order of the learned Single Judge by which the respondent-bank was directed to pay full back wages.
5. The appellant was at the relevant point of time working as officer and in charge of a branch in the village Chakarekhan of the State of Punjab. In regard to certain lapses in the release of certain subsidy to the tune of about RS. 1,36,499/- to 78 beneficiaries he was proceeded against by way of a charge

sheet, followed by an inquiry. The Inquiry Officer reached his conclusion as under:-

The conclusion reached by the Enquiry Officer is as follows:-

The allegation is, therefore, proved to the extent that in 70 cases sponsored loan applications are not on record, but non-sponsoring/recommending of cases by sponsoring agency is not proved due to insufficient evidence brought on record."

With regard to allegation at C, it has been further observed by the Enquiry Officer that this allegation is very closely related to allegations No. 1 and 2. The Enquiry Officer, therefore, states that while discussing and appreciating the evidence on allegations 1 and 2, the following facts have surfaced:-

"i) That the CSO has released subsidy amount without raising the loan.

ii) That the beneficiaries were interested in subsidy only and they were not interested in creation of assets.

iii) No complaint against CSO were supported.

iv) That the CSO was working under pressure due to disturbed condition in the area. His successors S. Jodh Singh also remained tense and left the branch subsequently as stated by MW 4.

However, the P.O. has not produced any evidence which could substantiate the charge that the CSO misappropriated the amount of subsidy in connivance with the borrowers. The allegation is, therefore, not proved."

On the basis of the aforesaid findings on each allegation the Enquiry Officer has held as follows:-

"Article of Charges

In view of my above observations/findings on each allegation:

i) It is proved that the CSO has disbursed subsidy amounting to RS. 1,36,499/- without raising any loan.

ii) The allegation that in 70 cases no sponsored loan application is on record is proved. However, non-sponsoring the cases could not be held as proved due to insufficient evidence brought on record.

iii) Allegation of misappropriation of subsidy amount in connivance with borrower is not proved. The act of CSO having disbursed subsidy amount without raising loan in violation of Bank norms and condition of Govt. Schemes though do affect tarnish the overall image of the Bank but the element of pressure due to disturbed condition may not be ignored altogether."

6. However, the disciplinary authority did not fully agree with the findings of the Inquiry Officer and based on the findings recorded by the disciplinary authority he was terminated from service by order dated 31st March, 1993. The appellant

preferred a departmental appeal which was also rejected by order dated 29th September, 1993.

7. When the appellant approached the High Court by way of a writ petition, learned Single Judge after making a detailed reference to the charges, the conclusion of the Inquiry Officer and the ultimate order passed by the disciplinary authority and the appellate authority held as under in its judgment dated 18th October, 2006:-

"The allegation against the petitioner is that he did not create assets for the Bank, for disbursing a subsidy given by the government. In all, the amount disbursed is RS. 1,36,499/- amongst 78 beneficiaries. The amount is less than RS. 2000/- per beneficiary. One is left wonder-struck, as to what possible loan security was the Bank expecting, from these poor and the down-trodden beneficiaries. That too at a time which is known as the height of Terrorism. The beneficiaries of the meager subsidy are from the marginalized, impoverished, residents of these remote village. Did any of the authorities, sitting in their ivory towers even contemplate the difficulties, it would have created, to demand security, for loans to be disbursed to the wretched and the poor residents? Was it not the duty of the Disciplinary Authority and the Appellate Authority, to bestow their benign attention to the plight of these poor wretches queueing up to receive a subsidy of less than RS. 2000/- each. These rather disturbing questions tend to arise, from the manner in which the Disciplinary Authority and the Appellate Authority have brushed aside the entire evidence the well reasoned findings of the Enquiry Officer, It appears as if the Enquiry Officer was more alive to the pitiable plight of these beneficiaries. The Enquiry Officer also recognised the sensitivity with which the petitioner behaved. He categorically observed that an element of disturbed condition in the area has come to light. The Enquiry Officer further categorically observes that there is no misappropriation. The beneficiaries were not interested in creating loan assets. The petitioner was working under pressure due to disturbed conditions. Keeping in view the aforesaid, I am of the opinion that the Disciplinary Authority has acted rather whimsically, if not vindictively. Therefore, on this additional ground, the order of the Disciplinary Authority dated 31.5.1993 is liable to be quashed."

8. Ultimately, the learned Single Judge, therefore, held as under:-

"I am of the considered opinion that in the facts and circumstances of the present case, it would not be just and proper to compel the petitioner to again face the departmental proceedings, after having contended this litigation for the last 12 years. As noticed earlier the order of dismissal was passed on 31.5. 1993 and the order rejecting the appeal was passed on 20.9.1993. the petitioner has been out of service for almost 13 years. The petitioner seems to have been made a victim of the circumstances. Each and every witness has come and supported the case of the petitioner that there were threats from terrorists. It has also come on record that no loss has been caused to bank. The charge of misappropriation has been specifically rejected by the Enquiry Officer. The only

lapse of which the Enquiry Officer held the petitioner guilty was that he had disbursed subsidies, without creating loan accounts against the beneficiaries. None of the beneficiaries has complained. No official of the Government department has complained. In such circumstances I am of the considered opinion that the petitioner has suffered enough from any imaginary administrative lapse that he may have committed. I, therefore, decline the prayer of the learned counsel for the respondents that the matter may be remanded back to the Disciplinary Authority for fresh decision.

In view of the above, the writ petition is allowed. Impugned orders dated 31.5.1993 and 29.9.1993 (Annexures P-3 to P-5) are quashed. The petitioner be reinstated in service with all consequential benefits i.e. continuity of service, back wages, seniority etc. The needful be done as expeditiously as possible, but not later than four weeks from the receipt of a certified copy of this order. No costs."

9. When the respondent-bank preferred the appeal, the Division Bench after noting the stand of the respondent-bank as regards the grant of back wages came to an abrupt conclusion that grant of back wages was not called for.

10. We heard learned counsel for the appellant, Mr. Aviral Dhirendra and Ms. Rekha Palli, learned senior counsel for the respondent-bank and having noted the above specific findings recorded by the learned Single Judge and the weighty reasons which weighed with the learned Single Judge while granting reinstatement with all back wages and continuity of service, we are convinced that the non-speaking order of the Division Bench was not justified. Though learned counsel for the respondent-bank attempted to contend that the conduct of the appellant while working as the officer of the bank could not have violated the norms set for the grant of subsidy and thereby exposed the Bank to great risk. In the case on hand there was no loss caused to the bank nor was there any act of misappropriation. But the fact remains that there was some lapse on the part of the appellant in the grant of subsidy to the loanees. It was contended that in the interest of the institution of the bank, such a conduct of the appellant cannot be left unnoticed by granting full back wages. The learned senior counsel, therefore, contended that the order of the Division Bench in having denied back wages does not call for interference.

11. Though we are able to appreciate the said submission of the learned senior counsel for the respondent-bank, having noticed the conclusions arrived at by the Inquiry Officer with which the disciplinary authority differed, we find that the reasons which weighed with the learned Single Judge in having interfered with the conclusion of the disciplinary authority; which part of it we have extracted above; was perfectly justified. We are convinced that every one of the circumstances noted by the Inquiry Officer as well as by the learned Single Judge in order to render a favourable conclusion for the appellant was fully justified in the peculiar facts and circumstances of this case. In such circumstances, while we are also convinced that the order of reinstatement with all continuity of

service including seniority etc. as granted by the learned Single Judge can be fully supported, taking into account the submission of learned senior counsel for the respondent-bank and also the fact that during the period of non-employment the appellant did not contribute his labour to the bank, while at the same time he was not responsible for such unjustified non-employment, deprivation of 25 per cent of back wages will meet the ends of justice.

12. With that view, while setting aside the judgment of the Division Bench and upholding that of the learned Single Judge, the grant of back wages is restricted to 75 per cent instead of full back wages. The respondent-bank is directed to pay 75 per cent of back wages within two months from today.

13. The appeals are partly allowed on the above terms.