
(1995) 12 MP CK 0014
In the Madhya Pradesh High Court
Case No : Writ Petition No. 131 of 1994

R.K. Gupta

APPELLANT

Vs

Central Bank of India and Others

RESPONDENT

Date of Decision : 01-12-1995

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1997) 1 MPLJ 149

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

Advocate : R.A. Roman, for the Appellant; N.P. Mittal, for the Respondent

Final Decision : Dismissed

Judgement

T.S. Doabia, J.

On account of certain acts of omission and commission, disciplinary proceedings were taken against the petitioner. Enquiry was held. The petitioner was found guilty. He preferred an appeal. The appeal stands dismissed. Copy of the order passed by the original authority is annexure P/9. The appellate order is annexure P/11. There is reduction of pay scale by two stages in the time scale. The original order as well as the appellate order are being challenged in this petition under Article 226 of the Constitution.

The petitioner submits that the enquiry proceedings have been taken in breach of a circular referred to para 5 of the petition. In this it is stated that whenever a memo is issued to an officer calling for his explanation and the same is not found satisfactory, a charge-sheet is required to be issued within a period of ten to fifteen days but not later than six months. It is non-compliance of this aspect which is being challenged in this petition. It is stated that the action was taken beyond the period referred to above, and therefore, the enquiry proceedings should be quashed. So far as the enquiry is concerned, the same is being challenged on the ground that the enquiring authority was prejudiced against the

petitioner. It has also been argued that the list of witnesses was not given to the petitioner and additions and deletions in the list of witnesses has also been made subject-matter of challenge. It has also been commented upon with a view to contend that no reasonable opportunity was given to the petitioner. The finding on merits has also been challenged. The allegations against the petitioner were that in the matter of releasing payments with regard to transactions which were subject-matter of charge No. 1, the petitioner failed to obtain bills and invoices and also did not verify whether the goods were actually delivered or not. So far as charge No. 2 is concerned the finding recorded is that no pre-sanction inspection was conducted by the petitioner. One of the charges pertains to the fact that there was no pre-sanction inspection carried out by the petitioner. This was found to be established. As indicated above, the punishment of reduction of pay in two stages was ordered and this is being challenged in the present petition.

It be seen that merely because some instructions have been issued with regard to conducting an enquiry within a specified period and that was not done would not furnish any ground to challenge the same by the petitioner. Similar point was considered by a Full Bench of Punjab and Haryana High Court in *Jagir Singh, Kanungo v. State of Punjab* (1993) 13 P&H 525. There were Government instructions to the effect that the enquiry proceedings should be completed within a specified period. It was held that merely because this is not done within the specified period would not render the enquiry proceedings bad. It would not confer any additional right on the concerned employee. In para 3 it was observed as under :

".... If the State Government have issued certain guidelines for the guidance of the various departments or the disciplinary authorities to impress upon them the necessity of finalising the departmental proceedings expeditiously or even within a fixed period, it does not mean that after the expiry of that period, a right in law accrues to the employee to approach the Court of law for the enforcement of those guidelines. The employee may, in a fit case, approach the Court for the quashing of the proceedings, if the pendency of the inquiry has otherwise been protracted and delayed to an unreasonable extent by the employer himself. Therefore, we cannot persuade ourselves to accept the view taken by the Division Bench in Civil Writ Petition No. 655 of 1977, *Jagir Singh v. State of Punjab*, and with respect we have no option but to overrule the same."

Coming to the merits of the controversy, it be seen that the assertion of the petitioner that the enquiring authority was acting mala fide cannot be accepted. There were four allegations against the petitioner. With regard to charge No. 3, the petitioner has been exonerated. It shows that there was proper application of mind on the part of the enquiring authority. Apart from this, the enquiry report has been considered both by the disciplinary authority as also by the appellate authority. It, however, be seen that the assertion of the petitioner that there was failure to give proper opportunity is again without any merit. Merely because, a

list of witnesses was not given would not furnish a ground for concluding that there is denial of opportunity. There was proper time gap and the petitioner had an opportunity to cross-examination. Again, merely because, some names of witnesses have been added or deleted later on would be no ground to come to the conclusion that there was no reasonable opportunity given to the petitioner.

It be seen that a positive finding has been recorded by the disciplinary authority as well as by the appellate authority that the petitioner permitted one borrower Akhileshwar Jain through M/s Garg Machinery Stores, Delhi. It was further established that the petitioner failed to obtain the bills and invoices and did not verify as to whether the goods had in fact been delivered to the borrower or not. The finding recorded is that the demand draft in this regard was issued on a bogus firm. The fact that there was no post-inspection conducted by the petitioner has also been established. All these findings of facts have been recorded after proper appreciation of evidence. As such, I do not think any interference is called for. This Court is not to act as a Court of Appeal. See : State of Andhra Pradesh v. S. Rama Rao AIR 1963 SC 1727, Union of India (UOI) Vs. Parma Nanda, and Government of Tamil Nadu v. A. Rajapandian 1994 AIR SCW 4833.

In view of the above, there is no merit in this petition and the same is dismissed. There would be no order as to costs.