

(1999) 12 PAT CK 0038
In the Patna High Court
Case No : C.W.J.C. No. 2658 of 1995

Sachchidanand Kumar

APPELLANT

Vs

The Central Bank of India and Others

RESPONDENT

Date of Decision : 08-12-1999

Acts Referred:

Citation : (2000) 2 PLJR 79

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Arun Prasad Ambastha and Raghvendra Singh, for the Appellant;
Ajay Kumar Sinha, for the Respondent

Judgement

Aftab Alam, J.—The Petitioner is an employee of the Central Bank of India He was proceeded against in respect of a number of charges appertaining to the period 31.5.1989 to 1.9.1992 when he was posted as the Branch Manager of Dhamdaha Branch. Though the charges on which the Petitioner was proceeded against were seven in number, at the conclusion of the departmental enquiry, the Enquiry Officer found and held that only charge Nos. 3 and 7 were established against him. As regards the other charges, the Enquiry Officer held that those were not established against the Petitioner Charge Nos. 3 and 7 which were found to be established against the Petitioner were as follows:

3. Shri Kumar used to remain on tour for much longer period on pretext of pre-sanction inspection/pdst-sanction inspection/recovery/renewal of documents, mostly pre-fixing and/or sufficing holidays/Sundays and other holidays with intention to avail of facility of remaining absent from headquarters for longer period without any just reason. This is evident from the following dates of tour:

25.11.91 Purnea 24.11.91 being Sunday

12.12.91 Purnea 13.12.91 on leave

17.3.92 Purnea 18.3.92 and 19.3.92 were holidays

3.4.92 Purnea 2. 4.92 leave

18.5.92 Nirpur 16.5.92 and 17.5.92 were holidays

By doing this Shri Kumar has also derived pecuniary benefit from Bank by claiming diem allowance.

7. Shri S.N. Kumar has undertaken tours on several occasions in the villages for pre-sanction inspection/post-sanction inspection/renewal of documents/recovery etc. But 340 documents were found expired/time-barred which has been accepted by Shri Kumar during handing over of charge to Shri V.P. Sodhi, the incumbent Branch Manager.

2. The disciplinary authority to whom the enquiry report was submitted found that besides charge Nos. 3 and 7, charge No. 1 was also established against the Petitioner on the basis of the materials brought on record Charge No. 1 was as follows:

Shri S.N. Kumar has violated the specific instructions of Regional Office, Purnea to disconnect the Telephone of the Branch, and also not followed the transfer orders of Shri B.K. Bhardwaj.

Shri Kumar has thus in subordinated the instructions of higher authorities and has failed to discharge his duties with utmost devotion, honesty and integrity.

3. The Petitioner accordingly given a second show cause notice along with a copy of the enquiry report. He submitted his reply to the second show cause notice following which the Regional Manager, being the disciplinary authority, by his order, dated 7.5.1994 (annexure-9) gave him the punishment of censure, each for charge No. 1 and charge No. 7, and the punishment of reduction of one stage in the time scale of pay for charge No. 3.

4. Against the order of punishment the Petitioner preferred an appeal which was disallowed by order, dated 5.10.94 (annexure-13) passed by the Assistant General Manager, the appellate authority.

5. As a result of the punishment awarded to him, the Petitioner also lost his chance of promotion though he was earlier empanelled for promotion to the Middle Management Grade Scale II and was duly intimated in this regard by letter, dated 21.10.92 (annexure-14). After being awarded the punishments, he was informed by letter, dated 29.6.94 (annexure-15) that in view of major punishment awarded to him no promotion would come to him and he stood debarred for three years.

6. The Petitioner has filed this writ petition seeking to challenge the order of punishment passed by the disciplinary authority on 7.5.94 (annexure-9) and the appellate order dated 5.10.91 (annexure-13) disallowing his appeal and confirming the punishments awarded to him and the letter, dated 29.6.94 (annexure-55) intimating that as a consequence of the punishments he would lose his chance for promotion for three years.

7. Mr. Ambastha, learned Counsel appearing for the Petitioner strenuously assailed the order of punishment passed against the Petitioner on a number of grounds. Mr. Ambastha submitted that the Petitioner was not given copies of the documents relied upon by the management in support of the charges and the failure to supply copies of the documents, according to him, had greatly prejudiced the Petitioner in properly and effectively defending himself. Mr. Ambastha pointed out that along with the chargesheet what was annexed as annexure-3 was only a list of documents and not the copies of the documents. Learned Counsel submitted that the failure to supply the copies of the documents mentioned in annexure-3 to the chargesheet had vitiated the disciplinary proceeding.

8. I am unable to accept the submission. From the materials also on record it is evident that all the documents were with the enquiry officer and those were freely available to the Petitioner from his inspection. In this regard it may further be noted that in response to the chargesheet, dated 30.4.1993, the Petitioner had submitted a detailed statement of defence on 18.5.93 in which he did not raise the mildest protest that in the absence of copies of the documents proposed to be relied in support of the charges he was handicapped in submitting his defence. I, therefore, find no substance in the submission that the disciplinary proceeding against the Petitioner was vitiated for non-supply of copies of the documents along with the chargesheet.

9. Mr. Ambastha next submitted that the copy of the charge report (i.e. the report prepared under the joint signatures of the Petitioner and his successor Branch Manager at the time of his handing over charge of Dhamdaha Branch) which was produced before the Enquiry Officer was incomplete. It was submitted that the missing pages of the charge report were relevant for charge No. 7, relating to non-renewal of the loan documents. With reference to the record of the departmental enquiry (second sitting, dated 18.8.93), Mr. Ambastha submitted that when the charge report was produced before the Enquiry Officer, the Petitioner had pointed out that it contained pages 1 to 41 only and the remaining few pages were not there. The Petitioner also made a request for the production of the missing pages which was approved by the Enquiry Officer. Mr. Ambastha submitted that despite the direction given by the enquiry officer the missing pages of the charge report were not brought before him which would have thrown some light on charge No. 7 relating to non-renewal of loan documents.

10. I find no substance in this submission either. There are sufficient materials on the record to show that it was pages 1 to 41 of the charge sheet which were jointly signed by the Petitioner and his successor-in-office. It further appears that the issue of non-renewal of the loan documents was also dealt with in those pages itself. The few pages beyond page 41 were, in fact, not part of the charge report but those comprised the letters written by the Petitioner to the higher officials on the issue of audit which had no relevance to any of the charges being

the subject matter of enquiry. The question of non-production of the last few pages of the charge report has been duly considered both by the disciplinary authority and the appellate authority and they have turned down the plea raised by the Petitioner on that basis by assigning good and satisfactory reason. It must, therefore, be held that the non-production of the last few Pages of the charge report did not affect the disciplinary proceeding in any manner.

11. Mr. Ambastha then submitted that on a proper appraisal of the evidence brought before the Enquiry Officer, charge No. 7 could not be reasonably said to have been established against the Petitioner. In this connection, he relied upon certain certificates (as annexure 11 and 11/A) issued by one A.G. Prabhu who was the Branch Manager of the Dhamdaha Branch in the year 1994. The certificates stated that all documents falling due for renewal were acknowledged/renewed by the debtors during the Petitioner's time at Dhamdaha Branch. The certificates also enclosed a list of all those documents which were renewed prior to their expiry. It may be noticed that the certificates were issued after the conclusion of the disciplinary proceeding and, in fact, after the order of punishment was passed by the disciplinary authority. Therefore, the certificates were enclosed with the Memorandum of appeal submitted by the Petitioner. In this regard, it may further be noted that Sri Prabhu was also examined as one of the defence witnesses and what he stated before the enquiry officer is as follows:

Q. 11. During this person what have you found in respect of documents etc?

Ans. In course of taking charge I found that document relating to borrowal account kept in the Almirah in haphazard manner and a bunch of acknowledgement of debts duly signed by borrowers and annexure for renewal of documents are kept separately. On thorough scrutiny I found that ledger No. with folios are written on the back or in the front. Hence presumption I have drawn is that on the above acknowledgement of dated and annexures relate to borrowal account which had been expired.

Q. 12. What could be the number of such A.D's if you can guess and say the number you have counted?

Ans. Actually I have not counted numerically. It may be in the range of 200 to 250.

12. It is to be noted here that Sri Prabhu was talking about the loan documents in the range of 200 to 250. The certificate given by him is also in respect of 279 loan documents whereas the charge against the Petitioner related to 340 documents. Hence, even if the statement of Sri Prabhu is to be accepted in entirety on its face value, more than 50 documents remain unexplained.

13. Mr. Ambastha then submitted that the enquiry officer had found that charge No. 1 was not established against the Petitioner but the disciplinary authority though holding the Petitioner guilty of charge No. 1 as well did not assign any reason for his disagreement with the finding of the Enquiry Officer.

14. In my view, this issue is quite academic. Even if charge No. 1 is kept aside, charge Nos. 3 and 7 stand proved. In other words, both the punishments, censure and reduction of one stage in the pay scale would remain undisturbed and thus there will be no material change in the outcome.

15. Mr. Ambastha lastly assailed the order withholding promotion for three years. There is no substance in this submission either. The empanelment of the Petitioner for promotion to the Middle Management Grade Scale II was subject to the conditions stated in the letter, dated 21.10.1992 as follows:

However, your promotion will be released as and when vacancies arise provided there is no Disciplinary Action initiated or to be initiated against you.

Shortly after his empanelment the disciplinary proceeding in question was initiated which concluded in imposition of punishments even before promotion was actually granted to the Petitioner. The withholding of promotion is thus simply a consequence of the punishment awarded to the Petitioner.

16. For the reasons discussed above, I find no merit in this writ petition and It Is accordingly dismissed but with no order as to costs.