

(2011) 10 SC CK 0064

In the Supreme Court Of India

Case No : Civil Appeal No. 2930 of 2009

State Bank of India

APPELLANT

Vs

Ram Lal Bhaskar and Another

RESPONDENT

Date of Decision : 13-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226

State Bank of India (Officers Service) Rules, 1992 — Rule 19(3)

Citation : (2012) 1 ALLMR 450 : (2012) 5 AWC 4748 : (2011) 131 FLR 1109 :
(2012) 1 JCR 207 : (2011) 12 JT 286 : (2011) LLR 1233 : (2011) 11 SCALE
589 : (2011) 12 SCR 1036 : (2012) 1 SLJ 108

Hon'ble Judges : R.V. Raveendran, J;H.L. Gokhale, J;A.K. Patnaik, J

Bench : Full Bench

Advocate : Amarendra Sharan, Anil Kumar Sangal and D.P. Mohanty, for the
Appellant; M.A. Krishna Moorthy, for the Respondent

Final Decision : Disposed Of

Judgement

A.K. Patnaik, J.—This is an appeal against the order dated 12.04.2006 of the Division Bench of the Allahabad High Court in Civil Miscellaneous Writ Petition No. 8415 of 2003.

2. The facts very briefly are that the Respondent No. 1 worked as a Branch Manager of the Appellant-Bank at Sirsaganj Branch. He was served with a charge-sheet dated 22.12.1999 alleging various acts of misconduct as the Branch Manager of Sirsaganj Branch. Thereafter, an enquiry was conducted and the enquiry officer submitted a report dated 28.09.2000 holding that four out of the six charges were proved against the Respondent No. 1. The charges No. 1, 2, 4 and 6 which were proved against the Respondent No. 1 in the enquiry are as follows:

Sl. No.

CHARGES

1.

He authorized opening of a Savings Bank Account No. 18776 on 31st March 1999 in the name of "TrailokyaBauddhaMahasangaSahayakeGane" a religious body at he Sirsaganj Branch without completing the formalities connected with opening of new accounts of such societies.

2.

He debited Savings Bank Account No. 18776 of "TrailokyaBauddhaMahasangaSahayakeGane" with Rs. one lac on 04.08.1999 on forged signatures of the depositor and credited the amount to his Savings Bank Account No. 101/18360 at the Branch. The debit and credit vouchers have been passed by him.

4.

Zonal Office vide S.L. No. P&C/483 dated 08.12.1998 advised the Branch regarding posting of Field Officer/Manager (Agri) at the Branch and handing over the relative charge to the concerned persons. He intentionally did not make arrangements for handing over the charge of Field Officer/Manager (Agri) to the concerned officers despite Zonal instructions.

Further, the loan applications received at the Branch were sanctioned by him without the recommendations of Field Officer/Manager (Agri).

6.

He claimed false T.A. Bill viz. Rs. 150/- for going to various villages on 15.05.1999 as included in his monthly Bill for Rs. 1,275/- for the month of May 1999 and at the same time, also claimed Rs. 275/- as TA Bill for 15.05.1999 for visiting Zonal Office, Agra thus he lodged false Bill for his official work.

A copy of the enquiry report was served on the Respondent No. 1 and the Respondent No. 1 was given an opportunity to submit his representation against the findings of the enquiry officer. The appointing authority then considered the enquiry report and the records of the enquiry and the submissions made by the Respondent No. 1 and imposed the penalty of dismissal from service by order dated 15.05.2001. The Respondent No. 1 filed an appeal against the order of the appointing authority, but the appellate authority dismissed the appeal by order dated 09.03.2002. The Respondent No. 1 filed a Review Petition, but the reviewing committee also dismissed the Review Petition by order dated 20.12.2002.

3. Aggrieved, the Respondent No. 1 filed Civil Miscellaneous Writ Petition No. 8415 of 2003 and the High Court, after hearing the learned Counsel for the parties, allowed the Writ Petition and quashed the order of dismissal passed by the appointing authority as well as the order passed by the appellate authority and, as the Respondent No. 1 had already retired from service, directed the Appellant to release his arrears of salary as well as the post retirement benefits.

4. Learned Counsel for the Appellant submitted that there were charges of grave misconduct against the Respondent No. 1 and four of the six charges had been proved in the enquiry. He submitted that the findings of the enquiry officer on the four charges proved against the Respondent No. 1 were based on relevant material and these findings had also been confirmed by the appellate and reviewing authorities. He submitted that contrary to the settled position of law that the High Court, while exercising its powers of judicial review under Article 226 of the Constitution, should not interfere with the finding in the departmental enquiry so long as it is based on some evidence in the impugned order, the High Court has interfered with findings in the enquiry and has held that the Respondent No. 1 was not guilty of the charges. By the impugned order, the High Court has also quashed the order of dismissal and has directed release of the arrears of salary and post retirement benefits of the Respondent No. 1.

5. Learned Counsel for the Respondent No. 1, on the other hand, supported the impugned order of the High Court and submitted that there is no infirmity in the impugned order of the High Court. He further submitted that in any case the Respondent No. 1 had retired from service on 31.01.2000, and though the charge-sheet was served on him on 22.12.1999 when he was still in service, the enquiry report was served on him by letter dated 28.09.2000 and he was dismissed from service on 15.05.2001 after he had retired from service. He submitted that after the retirement of the Respondent No. 1, the Appellant had no jurisdiction to continue with the enquiry against the Respondent No. 1. In support of this contention, he cited the decision of this Court in UCO Bank and Another Vs. Rajinder Lal Capoor,

6. We have perused the decision of this Court in UCO Bank and Anr. v. Rajinder Lal Capoor (supra) and we find that in the facts of that case the delinquent officer had already superannuated on 01.11.1996 and the charge-sheet was issued after his superannuation on 13.11.1998 and this Court held that the delinquent officer having been allowed to superannuate, the charge-sheet, the enquiry report and the orders of the disciplinary authority and the appellate authority must be held to be illegal and without jurisdiction. In the facts of the present case, on the other hand, we find that the charge-sheet was issued on 22.12.1999 when the Respondent No. 1 was in service and there were clear provisions in Rule 19(3) of the State Bank of India Officers' Service Rules, 1992, that in case disciplinary proceedings under the relevant rules of service have been initiated against an officer before he ceased to be in the Bank's service by the operation of, or by virtue of, any of the rules or the provisions of the rules, the disciplinary proceedings may, at the discretion of the Managing Director, be continued and concluded by the authority by which the proceedings were initiated in the manner provided for in the rules as if the officer continues to be in service, so however, that he shall be deemed to be in service only for the purpose of the continuance and conclusion of such proceedings. We may mention here that a similar provision was also relied on behalf of UCO Bank in UCO Bank and Anr. v. Rajinder Lal Capoor (supra) in regulation 20(3)(iii) of the UCO Bank

Officers Employees Service Rules, 1979, but this Court held that the aforesaid regulation could be invoked only when the disciplinary proceedings had been initiated prior to the delinquent officer ceased to be in service. Thus, the aforesaid decision of this Court in UCO Bank and Anr. v. Rajinder Lal Capoor (supra) does not support the Respondent No. 1 and there is no merit in the contention of the counsel for the Respondent No. 1 that the enquiry and the order of dismissal were illegal and without jurisdiction.

7. Coming now to the contention of the Appellant, we find that the enquiry officer has found that charges No. 1, 2, 4 and 6 had been proved against the Respondent No. 1. While arriving at these findings on the four charges proved against the Respondent No. 1, the enquiry officer has considered a number of documents marked as exhibits and has also considered the documents produced on behalf of the Respondent No. 1 and marked as exhibits. The findings of the enquiry officer were based on evidence and the appointing authority had agreed with the findings of the enquiry officer. This Court has held in State of Andhra Pradesh Vs. Sree Rama Rao,

The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence.

8. Thus, in a proceeding under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not re-appreciate the evidence and come to a different and independent finding on the evidence. This position of law has been reiterated in several decisions by this Court which we need not refer to, and yet by the impugned judgment the High Court has re-appreciated the evidence and arrived at the conclusion that the findings recorded by the enquiry officer are not substantiated by any material on record and the allegations leveled against the Respondent No. 1 do not constitute any misconduct and that the Respondent No. 1 was not guilty of any misconduct.

9. We, therefore, set aside the impugned order of the High Court and allow the appeal with no order as to costs.