
(1998) 08 AHC CK 0002
In the Allahabad High Court
Case No : C.M.W.P. No. 3010 of 1992

Vineet Misra

APPELLANT

Vs

Reviewing Authority, Industrial Relation Departmental Central
Office, Union Bank of India and others

RESPONDENT

Date of Decision : 03-08-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 4 AWC 498 : (1998) AWC 498

Hon'ble Judges : R.K. Mahajan, J

Bench : Single Bench

Advocate : Subodh Kumar, K.N. Tripathi, B.N. Mishra and M. Tripathi, for the Appellant; S.C., R.P. Goel and Vijay Ratan Agrawal, for the Respondent

Judgement

R. K. Mahajan, J.—By this writ petition, petitioner has prayed for issuance of a writ in the nature of certiorari quashing the impugned order dated 24th June, 1987 (Annexure-8 to the writ petition) and order dated 11th June, 1986 (Annexure-4 to the writ petition). By the impugned order dated 24th June, 1987, the reviewing authority has enhanced the penalty of reduction by three stages imposed on petitioner to that of dismissal.

2. The petitioner at the relevant time, i.e., on 15.1.1985 was an employee of the Bank dealing with the Job of receiving cash. One C. P. Gupta came and handed over a sum of Rs. 1,000 to the petitioner for depositing the same in his account. The petitioner gave him counterfoil but deposited the said amount after a month, i.e., on 15.2.1985. The petitioner was placed under suspension on 2.11.1985 and enquiry was instituted. The petitioner pleaded guilty but claimed leniency in the quantum of punishment with the plea that the alleged misconduct was unintentional.

3. A perusal of memorandum (Annexure-H shows that the first charge framed against the petitioner was that instead of depositing the said amount of Rs. 1,000 in the account, he misappropriated the same. The second charge was that

on 22.1.1985 when a cheque of Rs. 350 drawn by Sri Gupta was presented for payment, the petitioner made a fictitious credit entry of Rs. 1,000 in order to conceal the misappropriation.

4. On enquiry, the Enquiry Officer recorded the finding of misconduct against the petitioner. The Disciplinary Authority imposed major penalty of reduction in pay scale by three stages. The Reviewing Authority dismissed the petitioner from service considering the serious nature of misconduct after serving a notice on the petitioner as to why the penalty imposed by the Disciplinary Authority should not be enhanced.

5. The petitioner was dismissed on 24.6.1987 and writ petition was filed in the year 1992. The explanation furnished by the petitioner for delay is that after dismissal, he lost his mental balance and left his family and thereafter when he was pressurized by his family members, then he filed this writ petition.

6. Learned counsel for the petitioner confined his submissions to the quantum of punishment and contended that the punishment of dismissal is not in proportion to the misconduct committed. He further contended that the petitioner has been enjoying very good reputation in the Bank and his service record prior and after the alleged misconduct was unblemished.

7. Learned counsel for the Bank on the other hand contended that the petitioner was holding position of a trustee in the Bank and as such, it is a matter of loss of confidence and thus he jeopardised the reputation of the Bank. The averments made by the petitioner in the writ petition have been denied by the respondents in the counter-affidavit filed by them.

8. On the question of disproportionate punishment, learned counsel for the petitioner placed reliance on a decision of Apex Court in *Chari Duari Vs. Member, Motor Accidents Claims Tribunal and Others*, wherein it was held that there was no finding that the employee became negligent for his personal gain or corrupt motive and thus the dismissal from service was disproportionate and as such it was set aside. Learned counsel for petitioner further placed reliance on *Jitendra Pal Singh Bhaduria v. Chairman and Managing Director and Reviewing Authority Allahabad Bank and others* 1998 (78) FLR 816, wherein it has been held that while enhancing penalty the reviewing authority has to record his reasons after dealing with the contentions of the petitioner made in his reply to show-cause notice.

9. On the other hand, learned counsel for the respondents, placed reliance on a decision of learned single Judge of this Court in *Union Bank of India v. M. L. Kureel* and another 1994 (68) FLR 927, where the employee was punished for committing forgery and submitting false and inflated bills, it was held that the employer is entitled to invoke and plead loss of confidence to resist reinstatement. Further reliance was placed on *Tara Chand Vyas v. Chairman and Disciplinary Authority and others* JT 1997 (3) SC, wherein it has been held that disciplinary measures are required to eradicate catastrophic corruption in

banking service and to see that corrupt conduct does not degenerate the efficiency of service in banks and as such Apex Court refused to interfere in the matter.

10. Learned counsel for the petitioner also placed reliance on *Ganga Ram v. Pepsu Road Transport Corporation and another*, 1996 (72) FLR 409 , where on the charge of embezzlement of small amount the dismissal was not held to be disproportionate. Similar view has been taken in *D. Padmanabhu Vs. Bank of India and Another*, and *Indian Oil Corporation Ltd. and another v. Ashok Kumar Arora*, 1997 LLR 335. cited by learned counsel for the respondents.

11. Having given my thoughtful and anxious considerations to the contentions raised by respective learned counsel for the parties and having gone through the cases cited by them, this Court is of the view that the scope for Interference by this Court in the matters of major penalties is very limited unless it is disproportionate to the misconduct proved or shockingly unreasonable view has been taken by the authority concerned. The role of this Court in such matters is not that of appellate court and this Court cannot substitute its discretionary conclusions for that of the disciplinary authority or reviewing authority. In the facts and circumstances of this case, I don't find any error apparent on the face of record and the order of reviewing authority and I don't find any ground for Interference with the order impugned. Besides this, the writ petition itself was filed after 5 years and, therefore, on the ground of laches also no interference by this Court is called for.

12. In the result the writ petition fails and is dismissed.