

(2013) 03 CHH CK 0022
In the Chhattisgarh High Court
Case No : Writ Petition No. 3226 of 1998

V.S. Singh

APPELLANT

Vs

Durg Rajnandgaon Gramin Bank and Another

RESPONDENT

Date of Decision : 12-03-2013

Acts Referred:

Citation : (2013) 2 CGLJ 10 : (2013) 4 MPHT 29 : (2013) 3 MPJR 32

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Prafull N. Bharat, for the Appellant; Vaibhav Shukla and Mr. P.S. Koshy, for the Respondent

Judgement

Satish K. Agnihotri, J.—By this petition, the petitioner seeks to challenge the legality and validity of the order dated 8-1-1998 (Annexure P-19) whereunder a penalty of withholding five annual increments with cumulative effect was imposed on the petitioner by the Disciplinary Authority and the order dated 24-2-1998 (Annexure P-21) whereby the appeal of the petitioner against the order dated 8-1-1998, was rejected by the Chairman of the respondent-Bank. The petitioner at the relevant time, i.e., from 1987 to 1989 was posted as Branch Manager, Branch Kaudikara, Tehsil Chauki, District Rajnandgaon, during which certain allegations were made against him which is evident from the charge-sheet dated 19-1-1992 (Annexure P-6). Thereafter, enquiry was held and the petitioner was imposed with the punishment, as aforesaid by order dated 8-1-1998 (Annexure P-19).

2. Shri Bharat, learned Counsel appearing for the petitioner submits that there is no dispute that the charge-sheet did not contain any imputation of charges, list of documents and witnesses. The petitioner, by communication dated 20-7-1992 (Annexure P-7), requested the Chairman-cum-Disciplinary Authority to provide relevant documents in relation to the charges levelled against him. The petitioner, thereafter, on 5-1-1996 (Annexure P-8), during enquiry requested for providing certain documents stating therein that the petitioner would not be in

position to reply to the charges unless the said documents asked for was provided. It is not in dispute that the documents were not supplied to the petitioner, however, he was afforded an opportunity to peruse the documents.

3. On the other hand, learned Counsel appearing for the respondent-Bank submits that the petitioner had full opportunity to examine the witnesses and to peruse the documents. Thus, it cannot be held that the enquiry was vitiated.

4. Having heard learned Counsel appearing for the parties, perused the pleadings and documents appended thereto, it is evident that the charge-sheet did not contain the materials in support of the allegations levelled against the petitioner.

5. Regulation 30 of the Durg-Rajnandgaon Gramin Bank (Staff) Service (Amendment) Regulations, 1982 (for short "the Regulations, 1982") provides for a procedure to impose punishment. Clause (2) of the Regulation 30 of the Regulations, 1982 reads as under:--

(2) No officer or employee shall be subjected to the penalties referred to in clause (b), (c), (d), (e) or (f) of sub-regulation (1) except by an order in writing signed by the Chairman and no such order shall be passed without the charge being formulated in writing and given to the said officer or employee so that he shall have reasonable opportunity to answer them in writing or in person, as he prefers and in the latter case his defence shall be taken down in writing and read to him:

Provided that the requirement of this sub-regulation may be waived, if the facts on the basis of which action is to be taken have been established in a Court of law or Court martial, or where the officer or employee has absconded or where it is for any other reason impracticable to communicate him with or where there is difficulty in observing them and the requirements can be waived without injustice to him. In every case, where all or any of the requirements of this sub-regulation are waived the reason for so doing shall be recorded in writing.

6. It is clear that though, in specific terms, it has not been provided that the charge-sheet must contain imputation of charges, list of documents and list of witnesses, however, the principles of natural justice requires that proper materials or opportunity to the delinquent employee be provided to enable him to put forward his case and file proper response. If the petitioner was not provided details of charges, contention of the petitioner that he was not in a position to defend or put forward his case properly, merits acceptance. The charge-sheet was vague and did not disclose complete facts which lead to levelling of charges against the petitioner. Thus, the enquiry thereupon, cannot be held as a proper enquiry. The petitioner had no opportunity to meet the charges for want of material document.

7. This Court, in Ganesh Ram Chelak Vs. Bilaspur-Raipur Kshetriya Gramin Bank and another, W.P. No. 3790 of 1998, decided on 28-3-2011, relying on various decisions of the Supreme Court in Kashinath Dikshita Vs. Union of India

(UOI)and Others, Chandrama Tewari Vs. Union of India (UOI) (through General Manager, Eastern Railways), The Government of Andhra Pradesh and Others Vs. A. Venkata Rayudu, , State of U.P. and Others Vs. Saroj Kumar Sinha, , held that since the memo of charges and imputation of charges was not accompanied by a list of documents and witnesses, the enquiry was vitiated.

8. Further, this Court, in Ram Prasad Khande Vs. Bilaspur-Raipur Kshetriya Gramin Bank and others, W.P. No. 970 of 1993, decided on 12-7-2010, observed that "prejudice caused to the petitioner is writ large, as in absence of proper material the petitioner was deprived of opportunity to put forward his case in his defence".

9. In view of the foregoing, the impugned orders dated 8-1-1998 (Annexure P-19) the order dated 24-2-1998 (Annexure P-21) are quashed. Resultantly, the writ petition is allowed. However, on the request of learned Counsel appearing for the respondent-Bank, liberty is reserved to initiate the enquiry from the stage of issuance of charge-sheet, after following the rules, as aforestated and in accordance with law. No order as to costs.