

Om Prakash Khurania

Vs

Reserve Bank of India

Civil Appeal No. 2379 of 1977

(M.M. Punchhi, S.C. Agarwal JJ)

09.11.1990

JUDGMENT

1. A short question was kept alive to be decided in this appeal by special leave confining to ground (n) of the Special Leave Petition. That question arises in this manner Reserve Bank of India

2. In a departmental enquiry, the appellant was imposed four penalties out of which one was a penalty of Rs. 5,000/- to be recovered from him towards reimbursement of the total loss of Rs. 10,000 sustained by the respondent Bank who is his employer. The appellant filed a suit for recovery of a sum of money inclusive of the aforesaid sum of Rs. 5,000/-. The said sum had been recovered by causing deductions from the salary, allowances and increments due to the appellant. The appellant challenged the manner of recovery in the suit and on its dismissal reiterated his challenge before the High Court in Regular First Appeal. On the rejection of his contention, he had sought leave basically on the strength of Regulation 8 of the Reserve Bank of India Guarantee Fund Regulations (as amended up to December, 1958) which reads as under:

8." Any loss which the Bank may sustain by the dishonesty or negligence of a guaranteed employee shall be made good in the following order:

(a) Voluntarily by the employee or from his special security if he has been required by the Bank to provide a special security.

(b) From the Fund."

The ground of challenge has been framed as follows:

(n) "For that the impugned order directing the recovery of Rs.5,000/- from the petitioner towards part reimbursement of the loss allegedly sustained by the respondent is not sustainable as being ultra vires Regulation 8 of the Reserve Bank of India Guarantee Fund Regulations (as amended up to December, 1958). It is submitted that Regulation 8 of the said regulations is mandatory in that it prescribes the order in which any loss sustained by the Bank on account of the dishonesty or negligence of a guaranteed employee should be made good. The sum of Rs. 5,000/- therefore, should not have been forcibly recovered from the petitioner. The petitioner being a guaranteed employee, it was necessary in the absence of an offer by the petitioner to voluntarily make good the alleged loss, to recover the alleged loss from

the Guarantee Fund." The challenge has no substance. Reserve Bank of India (Staff) Regulations, 1948, providing penalties enumerates one of the penalties as "recovery from pay of the whole or part of any pecuniary loss caused to the Bank by the employee". The allowances and increments in the context are part of the salary and recoverable from the pay. The recovery can easily be said to have been justified under Regulation 47 of the Reserve Bank of India (Staff) Regulations, 1948 for it is thereunder the penalty was imposed. An additional method of recovery is available in Regulation 8 of the Reserve Bank of India Guarantee Fund Regulations. The High Court was thus right in concluding that the regulation did not make it obligatory on the bank to recover the loss suffered from the Fund and not the employee held responsible for it, and further that the regulation was an enabling one conferring a right on the bank to reimburse itself from the Fund, placing no restriction on its right to recover it from the employee. That right of the Bank has roots in Regulation 47 of Reserve Bank of India (Staff) Regulations, 1948. In this view of the matter, the judgment and order of the High Court requires no interference.

3. Accordingly, there is no merit in this appeal which is dismissed with no order as to costs.

Appeal dismissed.

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