

State Bank of Bikaner and Jaipur

Vs

Ajay Kumar Gulati

Civil Appeal No. 9226 of 1996

(B. P. Jeevan Reddy, S. C. Sen JJ)

16.07.1996

JUDGEMENT

B. P. JEEVAN REDDY, J.:-

1. Leave granted. Heard the counsel for the parties.

2. This appeal is preferred by the employer, State Bank of Bikaner and Jaipur against the judgment and order of the Delhi High Court giving certain directions with respect to the scope of disciplinary enquiry to be conducted against the respondent-employee.

3. A disciplinary enquiry was held against the respondent with respect to certain grave charges. The Enquiry Officer reported that the charges were established. Respondent submitted his comments and objections to the report of the Enquiry Officer. After considering the report and the objections, the Disciplinary Authority passed the following order on April 29, 1994. It is indeed a communication addressed to the respondent:

"With reference to your representation dated the 16th December, 1993, with regard to proceedings and findings of the Enquiry Officer constituted earlier to go into the charges against you, we have carefully gone into the points raised by you in your representation and having applied our mind dispassionately have observed that though his findings are sufficient for taking a view in the matter, to expel every iota of doubt and to provide every opportunity to you to put your defence, another opportunity in the name of justice may be given to you to make your position clear.

I have, therefore, issued orders for conducting the enquiry against you afresh and have appointed Shri S.K. Supekar, Branch Manager, D.N. Market, Ahmedabad as Enquiry Officer to conduct the necessary departmental enquiry. The notice dated 29-4-1994 issued by me in this respect is enclosed.

The date, time and place of the enquiry, will be advised to you by the Enquiry Officer. You are advised to remain available to him as and when required. Please also finalise the selection of your representative for defending your case, before the commencement of the proceedings in case you wish to engage one.

Please acknowledge receipt.

Yours faithfully.

Sd/-

C.K. MISHRA

Notified Disciplinary Authority".

4. On the same day, the very same authority addressed another communication to Sri S.K. Supekar, Branch Manager, State Bank of Bikaner and Jaipur, D.N. Market, Ahmedabad intimating that he has been appointed the Enquiry Officer and asking him to commence the enquiry on May 26, 1994 and complete the same within the period prescribed. The communication reads as follows :

"The abovenamed was issued charge-sheet No.DGM/DPS/159 dated 24-9-1991 for committing certain acts of misconduct while posted as ALPMO at Amar Colony, New Delhi Branch. Following the denial of charge by Shri Gulati, matter was not enquired into. Enquiry Officer has since submitted the enquiry report. Keeping in view the representation made by Shri Gulati and with a view to give him full opportunity to put up his defences, it has been decided by me to get the matter enquired afresh and have appointed you as Enquiry Officer. I forward herewith the copies of the following documents for your perusal and necessary action.

1. Noted dated 29-4-94 issued by me appointing you as Enquiry Officer.
2. Copy of Order dated 29-4-1994, appointing Shri G. S. Talwar as Bank's representative.
3. Copy of Charge-sheet No. DGM/DPS/159 dated 24-9-1991 issued to Shri A. K. Gulati.
4. Time schedule of the enquiry.
5. Copy of letter No. DGM/DPS/ dated 29-4-1994 addressed to Shri A. K. Gulati.

You are advised to commence the enquiry on 26-5-1994 as mentioned in the schedule of enquiry. You are further advised to complete the enquiry within the given schedule by holding the same on day to day basis without break. Please note that your report must reach me positively within the stipulated period as detailed in the enclosed time schedule.

Yours faithfully, Sd/-

(C. K. Mishra)

Notified Disciplinary Authority".

5. The respondent questioned the aforesaid proceedings/order dated April 29, 1994 by way of a Writ Petition (C.W. No. 405 of 1995) in the Delhi High Court. Though several grounds were raised in the writ petition, the only question urged before the High Court, as it appears from the order of the High Court was, from which stage of proceeding should the de novo enquiry commence. It would be

appropriate to extract the order of the High Court in its entirety:

"This writ petition can be disposed of at this stage as now the only question addressed before us is as to from what stage of the proceedings, the de novo enquiry should commence. A new Enquiry Officer has been appointed vide impugned order and impugned order has ordered de novo enquiry which, according to our view, was not justified. The reason given for holding fresh enquiry is that petitioner's grievance that he had not been given proper opportunity for defending his case by leading documentary and oral evidence has been accepted by the Department and for affording reasonable opportunity of hearing to the petitioner for giving him full defence, de novo enquiry has been ordered.

We are of the view that the enquiry should not be from the very beginning. The Department's evidence has already been completed and some evidence of the petitioner has also been recorded. The new Enquiry Officer should not proceed to give opportunity to the petitioner to produce his documentary and oral evidence and also consider the question of recalling any witness for further cross-examination by the petitioner and then proceed to decide the matter afresh. The petitioner be given his dues according to the rules. With these directions, this writ petition is disposed of. Parties are left to bear their own costs. The application is also disposed of".

6. In this appeal, it is contended by the appellant Bank that there is no warrant for the High Court to direct the enquiry to be conducted hereinafter should be confined to the recording of the evidence to be adduced by the respondent alone. The learned Counsel for the appellant contends that no reasons are given in support of the direction made by the High Court.

7. We are not prepared to agree. The High Court has given reasons for the direction it has given, in supersession of the orders of the notified Disciplinary Authority. We are unable to say that the view taken by the High Court is not a possible view. Acting under Article 136, we do not think it advisable to interfere with the order of the High Court, even if we find that another view of the matter is possible.

8. The appeal is dismissed accordingly. No costs. Appeal dismissed.