

Pankajesh

Vs

Tulsi Gramin Bank

(K. Ramaswamy, S. Saghir Ahmad, G. B. Pattanaik JJ)

07.05.1997

ORDER

1. Delay condoned.

2. We have heard learned counsel for the petitioner.

3. The petitioner was charge-sheeted for dereliction of the duty under Section 3 of the Regional Rural Banks Act (21 of 1976). After inquiry, the disciplinary authority directed with-holding of three increments with cumulative effect. On appeal, the appellate authority stated thus: "Therefore, in accordance with the decision taken by the Board of Directors, one increments is released and he is warned that in future no such act or irregularity will be repeated, otherwise serious disciplinary action will be taken". When writ petition was filed by the petitioner, the High Court in the impugned order dated December 16, 1996 made in Writ Petition 12133/93 stated as under:

"We do not feel inclined to quash the order passed by the appellate disciplinary authority who has disposed of the appeal of the petitioner by setting aside the order with-holding one of the three increments and has warned the petitioner that in future no such act/irregularity will be repeated by him and if it is done in that event disciplinary action will be taken against him."

4. It is contended by the learned counsel for the petitioner that the High Court has misunderstood the operative part of the order of the appellate authority. We find no force in the contention. The word "one increment release" would mean that the appellate authority is inclined to confirm the penalty of imposing two increments with cumulative effect and thereby, one increment was released from the penalty. The High Court therefore, is not right in construing that two increments have been released and one was retained. Instead, the reverse is the intention. Under the circumstances, while clarifying the factual position, we do not find that it is a case warranting interference.

5. The only legal question sought to be raised in the SLP is whether under Rule 30(3) of the Staff Service Regulation, the enquiry officer has to be higher in rank than the delinquent officer. Regulation 30(3) of the Staff Service Regulation postulates thus:

"The enquiry under this regulation and the procedure with the exception of the final order, may be delegated in case the person against whom proceedings are taken is an officer, to any officer who is in a grade higher than such officer and in the case of an employee, to any officer. For purpose of the enquiry, the officer or employee may not engage a legal practitioner."

6. Thus an enquiry, under the Regulation may be delegated to a person higher in rank than the

delinquent officer, in the case of an officer. But in this case we do not find any substantial miscarriage of justice prejudicial to the petitioner for the reason that though it is always desirable that an officer higher in rank than the delinquent officer should be directed to conduct an enquiry, the enquiry is conducted as a delegate of the disciplinary authority. Therefore, the ultimate decision is to be taken by the disciplinary authority. By mere delegating the enquiry whether the enquiry officer is of the same cadre or of higher grade than that of the petitioner, it did not cause any material irregularity nor resulted in any injustice to the petitioner. under these circumstances, we do not find any illegality warranting interference.

7. The special leave petition is accordingly dismissed.