

SUPREME COURT OF INDIA

State Bank of India

Vs.

Harbans Lal

C.A.No.6479 of 1998

(V. N. Khare and S. N. Phukan, JJ.)

03.05.2000

ORDER

1. The respondent herein is an employee of State Bank of India. On 3rd September, 1982 he was appointed as a Clerk-cum-Cashier. It appears certain acts of misconduct committed by the respondent came into light with the result on 29th November, 1990 he was suspended pending contemplated enquiry. In the year 1996, respondent filed a petition under Article 226 of the Constitution of India before the Punjab and Haryana High Court challenging the order of suspension and for a direction for payment of salary for the period when he was placed under suspension. The said writ petition was dismissed. However, a direction was issued to the appellant-Bank to complete the disciplinary enquiry before 31st August, 1996. Accordingly, the departmental enquiry was concluded and an order was passed by the disciplinary authority stopping three increments and also disallowing salary during the period of suspension. The respondent thereafter preferred an appeal before the appellate authority against the aforesaid punishment. The appellate authority partly allowed the appeal to the extent that instead of three, two increments were allowed to be stopped. The respondent thereafter filed a second petition under Article 226 of the Constitution. The prayer contained in the writ petition was to issue a direction to the appellant-Bank to pay full salary for the suspended period in accordance with the provisions of Sastry Award as adopted by the appellnat-Bank and for issue of further direction to the appellant-Bank to give all the benefits of increments, pay, revision, allowance etc. as admissible under the Rules. It is to be noted that in this writ petition there was no prayer for quashing the order of punishment as well as the appellate order to the extent

relief was refused to the respondent. However, the High Court took the view that in view of Sastry Award as adopted by the appellant-Bank, no order of suspension could have been issued before issue of the charge-sheet. It is only on this premise the High Court found that the order placing the respondent under suspension was illegal and void and, therefore, the respondent was entitled to salary during the period he remained under suspension before the issue of charge-sheet. It is against the said decision, the appellant is in appeal before us.

2. The short question that arises in this case is whether the appellant-Bank could have suspended the respondent before issuing a charge-sheet as per Sastry Award.

Paragraph 521 (10) (b) of the Sastry Award reads as under :

"Pending such inquiry he may be suspended, but if on the conclusion of the enquiry it is decided to take no action against him he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all the other privileges for the period of suspension; and if some punishment other than dismissal is inflicted the whole or part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a correspondent portion of the wages, allowances, etc."

3. Subsequently, paragraph 521(10)(b) was clarified/modified by a bipartite settlement/agreement dated 17th September, 1984 between State Bank of India and All India SBI Staff Federation under Section 2(p) and Section 18(1) of the Industrial Disputes Act, 1947, read with Rule 58 of Industrial Disputes (Central Rules). Clause 12 (iii) of the aforesaid settlement reads as under :

"(iii) Paragraph 521(10)(b) of the Sastry Award has been partially modified. The words "pending such enquiry" were creating confusion as to whether an employee can be suspended before a charge sheet is served. Inclusion of the words "or initiation of such enquiry" clarifies the position to the effect that an employee, against whom disciplinary action is proposed or contemplated, can be suspended. However, it is advisable to minimise the time lag between the date of suspension and the date of issue of charge-sheet."

4. By the aforesaid Clause 12(iii), the expression 'pending such enquiry' in paragraph 521(10)(b) was clarified and further modified to the effect that where the disciplinary action is proposed or contemplated, an employee can be suspended and there is no need for issue of any chargesheet. This being the legal position, the appellant-Bank was within its rights and power to suspend the respondent when a departmental enquiry was contemplated against him.

5. We, therefore, find that the view taken by the High Court was not sustainable in law. The order

and judgment under appeal is set aside. The appeal is accordingly allowed. No costs.

Appeal allowed.