

SUPREME COURT OF INDIA

G.M. (Personnel Wing), Canara Bank

Vs.

M. Raja Rao

(G.B. Pattanaik, S.N. Phukan and B.N. Agrawal JJ.)

22.03.2001

ORDER

1. This appeal is directed against the judgment of the Division Bench of Karnataka High Court. By the impugned judgment the Division Bench of High Court came to hold that the order of termination of the respondent after finding him guilty of charges leveled against him is unsustainable. But instead of directing reinstatement, the Division Bench directed that the respondent would be paid his salary from the date of dismissal on September 2, 1984 till the date of his enrolment as an advocate, i. e., October 12, 1988.

2. The respondent was working as a Manager of Canara Bank and while he was so working in the year 1981-82, a departmental inquiry was instituted against him under the provisions of the Canara Bank Officer Employees' (Discipline and Appeal) Regulations, 1976, a set of charges was leveled against him and the Enquiring Officer (EO), came to hold that the charges against the delinquent have been proved. On the basis of the aforesaid findings of the EO in his report, the Disciplinary Authority agreed with the conclusion and imposed the penalty of removal from service. In accordance with the provisions contained in the regulation, copy of the inquiry report was also furnished to the delinquent to enable him to prefer an effective appeal before the Appellate Authority. The delinquent did prefer an appeal before the Appellate Authority and the Appellate Authority finally dismissed that appeal by order dated May 23, 1985. The delinquent then filed a writ petition before the Karnataka High Court which was heard and disposed of by a learned single Judge. The learned single Judge did not find any infirmity with the disciplinary proceeding requiring interference by the High Court in exercise of its jurisdiction under Article 226 of the Constitution. The writ petition thus having been dismissed the delinquent preferred an appeal to the Division Bench. The Division Bench by the impugned judgment came to the conclusion that even though the Disciplinary Authority while agreeing with the report of the EO is not required to give any reasons, but in the case in hand a bare look at the order of the Disciplinary Authority would indicate that there was no application of mind to the relevant materials by the Disciplinary Authority and as such the order awarding the punishment is vitiated. The Division Bench further held that even the Appellate Authority did not consider the appeal of the delinquent in accordance with Regulation 17 and as such the appellate order also was vitiated. With these conclusions the Division Bench having held the order of termination to be bad but having granted the relief as already stated, the Bank has come up in

appeal. Mr. Sanghi, the learned senior counsel appearing for the Bank, fairly stated that though the Bank might not have contested the order in view of the fact that the order of reinstatement has not been directed, but on principle the impugned judgment being erroneous, on the face of it, the Bank was obliged to file the appeal and therefore contested the conclusions arrived at by the Division Bench. He contended that there is no requirement of law that when the Disciplinary Authority agreed with the findings and conclusions of the Enquiring Authority he is still required to give reasons in writing therefore and as such the ultimate conclusion of the Division Bench that there was no application of mind by the Disciplinary Authority is a conclusion based on no materials and as such cannot be sustained. He further contended that the so-called infirmity found by the Division Bench with regard to the Appellate Authority is also unsustainable inasmuch as the Appellate Authority has given a personal hearing to the delinquent and has gone into the contentions raised and thereafter taking a totality of all the circumstances, did not find it necessary to interfere with the conclusions arrived at by the Enquiring Authority and affirmed by the Disciplinary Authority and therefore did not interfere with the order of punishment awarded by the Disciplinary Authority.

3. Mr. Rama Jois, the learned senior counsel appearing for the respondent, on the other hand, contended that the order of the Disciplinary Authority itself would indicate that he had considered some other materials apart from the materials which had been submitted to him by the EO and the delinquent not having been put to notice of those materials, the ultimate conclusion is vitiated. According to him, the expression "other relevant factors" in the order of the Disciplinary Authority leads to the conclusion that he had considered some materials other than the materials that had been produced before the Enquiring Authority on which the Enquiring Authority has come to the conclusion. He further contended that even if the order of the Disciplinary Authority may not be found fault with but the order of the Appellate Authority on the face of it, is vitiated as held by the Division Bench since several contentions raised by the delinquent in his Memorandum of Appeal had not been adverted to and had not been answered by the Appellate Authority.

4. Having regard to the contentions raised by the counsel for both sides and having examined the impugned judgment of the Division Bench of Karnataka High Court, we have no hesitation to come to the conclusion that the High Court committed serious error in interfering with an order of punishment inflicted on a delinquent-employee on dereliction of duties and grave charges against him. The order of the Disciplinary Authority unequivocally indicates that he has gone into the findings of the Enquiring Authority and agreed with the same. When a Disciplinary Authority agrees with the findings and conclusions of the Enquiring Authority, it is not necessary in law to give any detailed reasons as to why he intends to agree with the findings of the Enquiring Authority. It is of course true that in the matter of award of punishing if Disciplinary Authority considers materials other than the materials which had been produced before the EO then the delinquent must be given a notice thereof or else the conclusions of the Disciplinary Authority would get vitiated. But, for mere expression used in "other relevant factors" in the order of the Disciplinary Authority, we are unable to persuade ourselves to agree with the submissions of Mr. Rama Jois that the Disciplinary Authority did consider any extraneous materials which had not been produced

before Enquiring Authority. In that view of the matter, we see no infirmity with the impugned order of the Disciplinary Authority inflicting the punishment of the termination of service.

5. So far as the order of the Appellate Authority is concerned, it is undoubtedly true that as provided in the Regulation, the Appellate Authority is required to pass a reasoned order. The question further arises for consideration is even though the order may be a reasoned order, can it be held to have suffered from any infirmity because all the contentions raised as alleged by the counsel for the delinquent, have not been dealt with?

6. On examining the order of the Appellate Authority, we are of the considered opinion that the Appellate Authority not only afforded opportunity of hearing to the delinquent, but also considered the contentions raised and then taking a totality of the entire circumstances agreed with the order of the Disciplinary Authority and dismissed the appeal. In that view of the matter, we do not think that any infirmity has been committed by the Appellate Authority in not giving detailed reasons on the contentions raised by the delinquent. In this view of the matter, the Division Bench also committed error in holding that the Appellate Authority committed a serious infirmity in dismissal of the appeal in question. Since both the conclusions of the Division Bench are wholly unsustainable in law, we set aside the impugned judgment of the Division Bench and hold that the writ petition filed before the High Court would stand dismissed. This appeal accordingly stands allowed with no order as to costs.