

SUPREME COURT OF INDIA

Om Pal Singh

Vs.

Disciplinary Authority

C.A.No.176 of 2020

(L.Nageswara Rao and Hemant Gupta,JJ.,)

14.01.2020

JUDGMENT

L.Nageswara Rao,J.,

1. The Appellant worked as an officer of Regional Rural Bank Services with the Muzaffarnagar Kshetriya Gramin Bank (hereinafter, 'the Bank1). On 27.05.2003, he was served with a charge sheet and was asked to submit his reply within a period of fifteen days. The charges that were framed against the Appellant are:

1. You did not comply the directions and regulations of Head Office.
2. You have worked against the interest of Bank/Injurious work, you was unauthorised absent.
3. You are isolated for the interest of Bank and to your duties.

2. Yet another charge sheet was issued on 30.05.2003 in which the following charges were framed:

- i. You have violated discipline of bank.
- ii. You are accused of misconduct.
- iii. You have made effort to diffuse the Bank image and on the basis of it your worked that injurious to the health of Bank.

3. The Appellant submitted his reply to the said charge sheets dated 27.05.2003 and 30.05.2003. The Appellant was placed under suspension by an order dated 29.07.2003. He challenged the order of suspension by filing a Writ Petition which was disposed of with a direction to the bank to complete the inquiry within four months. The High Court of Judicature at Allahabad refused to grant reinstatement. The Inquiry Officer submitted the

inquiry report on 23.12.2003 to the Disciplinary Authority. An opportunity was given to the Appellant to submit his remarks on the inquiry report. Thereafter, a show cause notice was issued to the Appellant to explain as to why he should not be dismissed from service. A reply was submitted by the Appellant on 11.06.2004, which was considered by the Disciplinary Authority. Another reply was submitted by the Appellant on 23.06.2004. By an order dated 05.07.2004, the Appellant was dismissed from service without any benefits under Regulation No.38 (kha) (4) of Muzaffarnagar Kshetriya Gramin Bank (Modified) Officer and Staff Services Regulations, 2010 (hereinafter, 'the Regulations').

4. The Appellant filed a Writ Petition challenging the order of dismissal which was not entertained by the High Court. Liberty was given to the Appellant to file an appeal. Pursuant to the liberty granted by the High Court, the Appellant submitted an appeal against the order of the Disciplinary Authority dismissing him from service to the Board of Directors, Muzaffaragar Kshetriya Gramin Bank. The said appeal was dismissed by the Board of Directors by an order dated 24.03.2005. The Appellant was successful in his challenge against the order passed by the Board of Directors dismissing his appeal before the High Court. The High Court set aside the order passed by the Board of Directors on 24.03.2005 and remanded the matter back to the Board of Directors to consider the appeal filed by the Appellant afresh. The Board of Directors dismissed the appeal on reconsideration. A Writ Petition filed against the order of the Board of Directors dismissing the appeal second time was allowed and the Appellate Authority was directed to apply its mind to the quantum of punishment and pass a fresh order. A Sub-Committee was constituted by the Board of Directors and it was held by the Committee that the charges of misconduct against the Appellant did not warrant the penalty of dismissal from service. The Committee further recommended that the penalty of dismissal be reviewed and reduced to that of reduction of 15 stages in payment, lower in time scale of pay for a period of eight years with a further direction that the Appellant shall not earn increment of pay during the period of such reduction and on expiry of such period, the reduction shall have the effect of postponing the future increments of his pay in terms of Regulation 39 (1) (b) (i) of Chapter IV of the Regulations. The recommendation made by the Committee was accepted by the Board of Directors and the punishment suggested by the Committee was imposed by the Board of Directors on 10.09.2012. The Appellant retired on attaining the age of superannuation on 31.12.2012.

5. The penalty of reduction of pay of 15 stages was challenged by the Appellant by filing a Writ Petition. The High Court allowed the Writ Petition and directed the Respondent-Disciplinary Authority to re-examine the matter afresh. The Disciplinary Authority, in compliance with the order of the High Court, reconsidered the matter and reiterated the penalty of reduction of 15 stages lower in time scale of pay for a period of eight years. Later, the Disciplinary Authority modified the punishment of reduction to 10 stages (increments) lower in time scale of pay for a period of six years with further direction that the officer shall not earn the increments of pay during the period of said reduction and on expiry of such period, the reduction shall have the effect of postponing the future increments on his pay. Thereafter, the Appellant filed an appeal which was dismissed by the Appellate Authority. The High Court upheld the order passed by the Appellate

Authority by dismissing the Writ Petition filed by the Appellant.

6. The High Court was of the opinion that the charges framed against the Appellant were fully proved and the imposition of penalty by the order dated 29.10.2015 was commensurate with the delinquency of the Appellant as the penalty imposed on the Appellant was not shockingly disproportionate. The High Court felt that the order dated 29.10.2015 did not warrant any interference.

7. Notice was issued to the Respondent by this Court to show cause as to why the Appellant shall not be entitled for salary for the period of suspension from 29.07.2003 to 10.09.2012.

8. Mr. M. Karpaga Vinayagam, learned Senior Counsel appearing for the Appellant submitted that the Appellant shall be entitled for payment of the salary during the period of his suspension as the order of dismissal was set aside and substituted by a lesser punishment. According to him, the principle of 'no work no pay' shall not apply to the instant case. He relied upon several judgments of this Court in *Bank of India v. T S. Kelawala*¹, *Syndicate Bank v. K. Umesh Nayak*², *Ranchhodji Chaturji Thakore v. Superintendent Engineer*³, *Gujarat Electricity Board and Commissioner, Karnataka Housing Board v. Muddaiah*⁴ in support of his submission.

9. Mr. Rajesh Kumar-I, learned counsel appearing for the Bank submitted that the Appellant was not exonerated on the charge. The Disciplinary Authority merely reduced the penalty from dismissal to reduction in time scale of pay which does not entitle the Appellant to claim full salary for the period of suspension. A charged employee shall be entitled to claim full salary for the period of suspension only in case the order of penalty is set aside and he is held not guilty of any of the charges. He relied upon the judgment of this Court in *Managing Director, ECIL, Hyderabad And Others v. B. Karunakar and Others*⁵.

10. The only question that arises for our consideration in the present appeal is whether the Appellant is entitled to payment of salary for the period of suspension i.e. from 29.07.2003 to 10.09.2012. There is no need to reiterate that the order of dismissal was set aside and the punishment of reduction in time scale of pay was imposed on the Appellant. It is clear that the findings of the Inquiry Officer that the charges against the Appellant were proved and have not been disturbed. Reduction of the penalty from dismissal to that of reduction in time scale of pay does not result in exoneration of the Appellant of the charges framed against him. However, it is for the Disciplinary Authority to take a decision as to how the period of suspension shall be treated. While passing the impugned order dated 29.10.2015, the Disciplinary Authority held that the Appellant shall not be entitled for any payment from 06.07.2004 to 29.08.2012.

11. In *J.K. Synthetics Ltd. v. K.P. Agrawai & Anr*⁶, this Court dealt with the issue regarding the entitlement of a delinquent to claim continuity of service and consequential benefits in all cases of reinstatement as follows:

"17. There is also a misconception that whenever reinstatement is directed, 'continuity of service' and 'consequential benefits' should follow, as a matter of course. The disastrous effect of granting several promotions as a 'consequential benefit' to a person who has not worked for 10 to 15 years and who does not have the benefit of necessary experience for discharging the higher duties and functions of promotional posts, is seldom visualized while granting consequential benefits automatically. Whenever courts or Tribunals direct reinstatement, they should apply their judicial mind to the facts and circumstances to decide whether 'continuity of service' and/or 'consequential benefits' should also be directed. We may in this behalf refer to the decisions of this Court in *A.P.S.R.T.C. v. S. Narasa Goud*⁷ *A.P.S.R.T.C. v. Abdul Kareem*⁸ and *R.S.R.T.C. v. Shyam Bihari Lal Gupta*⁹ "

12. It was further held in the said judgment that if reinstatement is a consequence of imposition of a lesser punishment, neither back-wages nor continuity of service nor consequential benefits follow as a natural or necessary consequence of such reinstatement. This Court went on to hold that where the misconduct was held to be proved, reinstatement by itself is a consequential benefit arising from imposition of a lesser punishment. However, this Court was of the opinion that award of back wages for the period when the employee has not worked may amount to rewarding the delinquent employee and punishing the employer for taking action against the misconduct committed by the employee, which should be avoided.

13. Following the aforementioned judgment, we are of the opinion that the decision of the Disciplinary Authority in not paying the salary for the period of suspension cannot be said to be contrary to law.

14. For the aforementioned reasons, the appeal is dismissed.

Judgment Referred.

¹(1990) 4 SCC 0744

²(1994) 5 SCC 0572

³(1996) 11 SCC 0603

⁴(2007) 7 SCC 0689

⁵(1993) 4 SCC 0727

⁶(2007) 2 SCC 0433

⁷(2003) 2 SCC 0212

⁸(2005) 6 SCC 0036

⁹(2005) 7 SCC 0406