

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 23rd November, 2011

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LPA No.427/2011

N.K. SINGHAL

..... Appellant

Through: Mr. Rishikesh, Adv.

versus

SYNDICATE BANK & ORS.

.... Respondents

Through: Mr. Jagat Singh, Adv.

CORAM :-

HON'BLE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. Whether reporters of Local papers may be allowed to see the judgment? Not Necessary
2. To be referred to the reporter or not? Not Necessary
3. Whether the judgment should be reported in the Digest? Not Necessary

RAJIV SAHAI ENDLAW, J.

1. The appeal impugns the order dated 3rd March, 2011 of the learned Single Judge dismissing W.P.(C) No.5097/1999 preferred by the appellant. The said writ petition was filed impugning the order of dismissal of the appellant from service of the respondent Bank, and the orders of dismissal of the departmental appeal and review application preferred by the

appellant.

2. The appellant while working as Assistant Manager at the Chandni Chowk Branch of the respondent Bank was vide order dated 7th February, 1992 placed under suspension for the reason of having made fictitious debit entries in the Branch Adjustment Account to the tune of ₹85,000/- and having thereafter credited the proceeds by way of fictitious credit entries in accounts of which he was the joint holder. A charge sheet dated 1st July, 1992 was served on the appellant and inquiry initiated. The Inquiry Officer (IO) in the proceedings of 28th August, 1992 has noted that the appellant at that stage only stated that he neither wanted a defence representative nor had any defence to make and had already submitted a letter dated 14th July, 1992 to the Dy. General Manager of the respondent Bank admitting his guilt and requesting for a lenient view to be taken in the matter. It is further recorded that upon the charges being read, the appellant admitted all the charges and again reiterated that he had no defence and requested for a lenient view to be taken. The IO still proceeded to take the documents produced by the respondent Bank in support of the charge and authenticity and genuineness whereof the

appellant did not dispute. The IO accordingly on the basis of the evidence led before him held the appellant guilty of all charges levelled against him. The copy of the inquiry report was forwarded to the appellant and opportunity given to make submissions/representation with respect thereto. The appellant again vide reply dated 17th September, 1992 merely stated, that he was a victim of circumstances and accepted his lapses; that he had not caused any pecuniary loss to the respondent Bank in as much as he had returned all the monies and again sought a lenient view. The Disciplinary Authority of the respondent Bank after satisfying itself of the validity of the inquiry, found no extenuating grounds to condone the lapses/misconduct on the part of the appellant and held the misconduct to be grave and serious in nature with dishonest intention to defraud the Bank by misappropriating the funds of Bank and by falsification of the Bank's record and imposed the punishment of dismissal from service. The appellant preferred a departmental appeal and a perusal whereof also shows that the appellant save for explaining the reasons for the misconduct, did not dispute admission of guilt or aver any fault with the inquiry proceedings. The Appellate Authority also held that the

misconduct being grave in nature warranting deterrent punishment, dismissed the appeal. The appellant confined the review application also to, having been compelled by circumstances to indulge in the acts with which he was charged. The Review Authority found the acts/misconduct of which the appellant had accepted his guilt, to be involving moral turpitude and further held that a person of doubtful integrity cannot have any place in an organization like banking. Accordingly the review application was dismissed on 28th September, 1993.

3. The appellant after nearly 1½ years in March, 1995 filed a writ petition challenging his dismissal. However the said writ petition was withdrawn on 25th September, 1996 with liberty to file another writ petition. After waiting for another three years, the writ petition from dismissal whereof the present appeal arises, was filed in the year 1999. In the writ petition, the appellant for the first time contended that the inquiry was conducted in haste and was an eyewash and he was not allowed any defence representative. It was also alleged that admission of guilt had been procured from him on the assurance that a lenient view shall be taken.

4. The learned Single Judge has held that the plea of assurance that he shall be dealt with leniently was clearly an afterthought and the appellant had failed to substantiate the same; that the appellant had not even named anyone who had given any assurance as alleged; that the appellant at all stages had been admitting his guilt and financial irregularity and the only plea was of circumstantial compulsion. Accordingly, the writ petition was dismissed.

5. We have heard the counsel for the appellant and perused the amended memo of appeal which the appellant was permitted to file. The counsel for the appellant has drawn our attention to ground 'T' in the memo of appeal where it is contended, that Rule 19 of the Syndicate Bank Officer Employees (Discipline & Appeal) Regulations, 1976 requiring consultation with the Central Vigilance Commission (CVC) "wherever necessary" in respect of all disciplinary cases having a vigilance angle, has not been complied with. He has contended that the proceedings against the appellant are liable to be quashed on this ground alone.

6. We do not find any merit in the aforesaid contention. Rule 19 relied upon, from a bare reading thereof does not make consultation with the

CVC mandatory and such consultation has been provided for “wherever necessary”. In the present case the appellant has at each and every stage right from the response to charge sheet till the filing of the review application admitted his guilt. The counsel for the appellant has also been unable to show as to why such consultation with the CVC was necessary or as to how the appellant has been prejudiced from such consultation having not been done. We have recently in W.P.(C) No.7890/2011 titled ***Central Board of Trustees v. M. Vijayaraj*** decided on 8th November, 2011 held such consultation to be not mandatory.

7. Otherwise a perusal of the proceedings before the IO, before the Disciplinary Authority, before the Appellate Authority and the Reviewing Authority support the conclusion drawn by the learned Single Judge of the appellant having utterly failed to establish any case of any assurance as alleged having been meted out to him. We are otherwise also of the opinion that no such assurance could in law have been given. Once the appellant is found to have indulged in falsification/fabrication of records and in misappropriation of the funds of the respondent Bank which are public monies, the appellant did not deserve any sympathy. The law in this

regard is no longer *res integra*. It has been held in (i) ***Damoh Panna Sagar Rural Regional Bank v. M.L. Jain*** (2005) 10 SCC 84, (ii) ***State Bank of India v. Ramesh Dinkar Punde*** (2006) 7 SCC 212, (iii) ***State of Meghalaya v. Mecken Singh N. Marak*** (2008) 7 SCC 580, (iv) ***Punjab & Sind Bank v. Daya Singh*** (2010) 11 SCC 233 & (v) ***State Bank of Bikaner & Jaipur v. N.C. Nalwaya*** (2011) 4 SCC 584 that cases of such nature by employees of the Bank are to be severely dealt with.

8. We therefore do not find any merit in this appeal; the same is dismissed.

RAJIV SAHAI ENDLAW,J

ACTING CHIEF JUSTICE

NOVEMBER 23, 2011

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