

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No.367 of 2013

1. Durg Rajnandgaon Gramin Bank, through its Chairman, Durg Rajnandgaon Gramin Bank, Head Office, G.E. Road, Thana: Rajnandgaon, Distt. Rajnandgaon (CG), Pin- 491441.

2. The Chairman, Durg Rajnandgaon Gramin Bank, Head Office, G.E. Road, Thana: Rajnandgaon, Distt. Rajnandgaon (CG), Pin- 491 441

APPELLANTS

Vs

Shri V.S. Singh, S/o Late D.L. Singh, Aged about 46 years, Branch Manager, Durg Rajnandgaon Gramin Bank, Branch: Dudheli, Thana Dondi Lohara, Distt. Balod (CG) Pin- 491226

RESPONDENT

For the appellant: Shri N. Naha Roy, Advocate.

For the respondent: Shri Prafulla Bharat, Advocate.

Hon'ble The Chief Justice
Hon'ble Shri Justice Pritinker Diwaker

Order On Board

Per Navin Sinha, Chief Justice

17/07/2015

1. The present appeal assails order dated 12.03.2013 allowing Writ Petition No.3226 of 1998. The Learned Single Judge held that the departmental proceedings against the respondent culminating in the punishment dated 8.1.1998 for withholding five annual increments with cumulative effect as also the appellate order dated 24.02.1998 rejecting his appeal were unsustainable as the departmental proceedings were procedurally flawed. The matter was therefore remanded to the Appellant for proceeding afresh from the stage of issuance of charge sheet.
2. Learned Counsel for the Appellant submits that even if there was no

list of witnesses or documents appended to the charge sheet, no prejudice has been caused to the Respondent as he was given opportunity and had cross-examined the witnesses also. The Respondent was given access and permitted to inspect all documents on which the charge was proposed to be proved. The enquiry report itself reflects these facts. The learned Single Judge ought not to have interfered with the impugned orders.

3. Learned Counsel for the Respondent submits that the learned Single Judge arrived at a satisfaction from the materials on record that the departmental proceedings were procedurally flawed. A bare perusal of the charge sheet reveals that it does not contain any list of witnesses or documents. It is disputed and denied that the respondent was permitted inspection of the documents or the documents were supplied to him. The Respondent had requested for specified documents and not in generality. The appellate order is also cryptic and non-speaking in nature. The Respondent has been suffering at the hands of the appellants since 8.1.1998.
4. We have considered the submissions on behalf of the parties.
5. The principles with regard to judicial review of an order of punishment passed in a departmental proceeding stand well established and need not be reiterated. Our concern shall be limited to examining if there has been procedural impropriety in the conduct of departmental proceedings only.
6. Merely because the memo of charge may not have been accompanied by list of witnesses or documents, may not be sufficient to set aside an order of punishment if otherwise opportunity for cross-examination of witnesses was provided, the documents asked for

were supplied or inspection permitted. The latter aspect is very important and has to be done well in advance to the day of the inquiry so as to enable the delinquent to prepare and formulate his defence. If the documents are made available on the day of the inquiry itself it will not meet the requirements of the law. Conversely, if inspection was offered in advance and the delinquent does not take advantage of the opportunity he cannot complain.

7. We have examined the enquiry report and also the counter affidavit filed by the Appellant to the writ petition. It leaves us dissatisfied that the Respondent was supplied copies of documents that he had asked for in advance to enable him to prepare his defence or that he was permitted inspection and that he in fact inspected the documents or failed to come for inspection. The pleadings in the counter affidavit in this regard are extremely vague. Merely giving of letters to the respondent to come and inspect without any specific statements in the counter affidavit that he came or declined to come will not suffice. Likewise, the counter affidavit also states that some documents were available at the Head Office and other were available elsewhere at another branch where the Respondent was asked to go and inspect. No statement has been made whether the respondent went to inspect the documents or declined to do so.
8. If that were not enough, the Appellate order dated 22.4.1998 is completely cryptic and non-speaking in nature. Mere recitation of the words that documents have been examined and mind applied to them will not suffice. Even though an appellate order is not required to be reasoned like an original order, nonetheless it is required to briefly recapitulate the contentions and counter contentions and then

succinctly indicate application of mind by the appellate authority before arriving at a conclusion. The Respondent has raised serious issues with regard to procedural impropriety in the conduct of the departmental proceedings. Because the appellate order is cryptic and non-speaking, it is always possible that the appellate authority found it difficult to meet the grounds raised by the Respondent and therefore preferred not to pass a speaking order.

9. In the entirety of the discussion, we do not find any reason to interfere with the impugned order under appeal. It may have been mere prudent for the Appellant to have proceeded afresh and concluded the departmental proceedings from the stage of irregularity rather than to have kept this matter pending. We are informed that the Respondent has a short duration of service left before superannuation.
10. Shri Bharat appearing for the Respondent undertakes that his client will fully cooperate with the departmental enquiry so that it may be concluded expeditiously at an early date. Let the departmental proceedings be concluded in accordance with law within a maximum period of six months from the date of receipt or production of copy of this order.
11. The appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(Pritinker Diwaker)
Judge