

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 940 (2 cases) + 241

Case No. : C. W. P. No. 11202 of 2010 (O&M)

Date of Decision : April 23, 2015

Parthasarthi Sharma Petitioner

Vs.

National Bank for Agricultural and Rural
Development (NABARD) and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. R. D. Bawa, Advocate
for the petitioner.

Mr. Amrik Singh, Advocate
for the petitioner in C. W. P. No. 22244 of 2010.

Mr. Jagdeep Jaswal, Advocate
for the petitioner in C. W. P. No. 2745 of 2015.

Mr. Girish Agnihotri, Senior Advocate
with Mr. Deepender Singh, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

These petitions being C. W. P. No. 11202 of 2010, C. W. P. No.

22244 of 2010 and C. W. P. No. 2745 of 2015, involving similar questions of fact and law, were taken up for hearing together and are being disposed of by this common judgment. For the sake of convenience, facts are being taken from C. W. P. No. 11202 of 2010.

Shorn of unnecessary details, the undisputed facts, borne out from the record, as also from the submissions made at the bar, are that the petitioner was served with a charge-sheet for alleged acts of omission and commission on his part. Reply to the charge-sheet was submitted by the petitioner, but the same, having been found to be unsatisfactory, he was subjected to a regular departmental inquiry. As per the inquiry report, the petitioner was found guilty of the charges levelled against him. A copy of the inquiry report was duly served upon the petitioner, to which he gave his response. Rejecting his response, the punishing authority passed orders terminating the services of the petitioner. The appeal filed by the petitioner against the orders of termination of his services was also rejected by the appellate authority. Against the order terminating his services and the orders passed by the appellate authority, the petitioner has preferred the present petition before this Court.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

A perusal of the inquiry report shows that the Inquiry Officer had returned the findings of guilt against the petitioner after relying on as many as ten exhibited documents and statements of four witnesses. It is the

undisputed position before me that neither the above said ten documents nor the four witnesses found any mention in the charge-sheet served upon the petitioner. It is further the admitted position that at no point of time before the actual inquiry proceedings, was the petitioner made aware of the above referred documents, which were used against him or about the witnesses, who had deposed against the petitioner.

It is further the undisputed position before me that the inquiry proceedings, which were held on 12.10.2007, commenced at 02:15 P.M. and were completed by 05:00 P.M.

In view of above facts, it is clear that the above said ten documents were exhibited and used to the prejudice of the petitioner without supplying copies of the same to the petitioner. Similarly, as many as four witnesses were examined in the inquiry proceedings, about whom the petitioner was not put to prior notice.

The above said procedure followed by the Inquiry Officer is clearly flawed as the same is in gross violation of the principles of natural justice. It also violates guidelines of the respondent - National Bank for Agricultural and Rural Development (NABARD) (hereinafter referred to as – the Bank), which provided as under :-

“Para 5.2 : Contents of the charge sheet

A charge sheet should contain the following :

(a) Brief description of the incident

involving the lapse/act of misconduct. It should mention the facts clearly and should be precisely set in simple language, indicating the date, time and place of the incident and should be strictly confined to the alleged act/s of misconduct. The details of the evidence should be narrated.

(b) Narration of the specific charge/s along with the reference to the Rule within which the act of misconduct falls. If more than one charge is framed, each charge should be set out separately.

(c) The provisions of the Rule under which the charge-sheet is issued should be indicated (i.e., Rule 47 of NABARD (Staff) Rules, 1982.

(d) List of witnesses/documents on which the Bank relies upon.

(e) Time within which the charge sheeted employee is required to reply to the charges.

(f) Compliance of other requirements, such as furnishing the list of witnesses, etc.

(g) Signature of the competent Authority.”

“Para 5.8 : Supply of copies of relevant documents

(1) Copies of the original report/ complaint, statements on which the Bank relies upon in support of the charges and the photocopies or certified copies of other documents and extracts of registers, etc. which are relevant and referred to or relied upon in framing the charge-sheet, should be furnished to the charge-sheeted employee along with the charge-sheet. If it is not possible to furnish copies of certain documents along with the charge-sheet, all efforts should be made to furnish the same soon after the issuance of the charge sheet.”

The case of the petitioner is also fully covered by a recent order by the Apex Court in **Arvind Singh Arora vs. The National Bank for Agriculture and Rural Development and others – Civil Appeal No. 10809 of 2014**, decided on 05.12.2014. In that case, the appellant therein

had been served with the same charges as the petitioner in this case. The Inquiry Officer and the Disciplinary Officer in both the cases were also the same. The procedure followed by the Inquiry Officer in Arvind Singh Arora's case (*supra*), as also in the case of the petitioner, was also the same. Considering that matter, the Apex Court, allowed the appeal in the following terms :-

“9. *The narration of the facts, above mentioned, indicates quite clearly that the procedure adopted by the Inquiry Officer was completely unsatisfactory and arbitrary. No opportunity was given to the appellant either to examine the documents that were sought to be relied upon by the Inquiry Officer and indeed copies of the documents were not made available to the appellant. Similarly, the Inquiry Officer examined three witnesses without giving an opportunity to the appellant to even know their names in advance.*

10. *In the absence of any proper procedure having been followed by the Inquiry Officer, there is no doubt that the departmental proceedings require to be quashed and we do so accordingly.*
11. *As a consequence of quashing the disciplinary proceedings as well as the inquiry report, we set aside the order of dismissal passed against the appellant and the order rejecting his departmental appeal as well as the order dismissing his writ petition.*
12. *The appeal is allowed in the above terms. The appellant will be entitled to all consequential benefits. No costs.”*

The case of the petitioner is fully covered by the above reproduced order.

In view of the above, the impugned disciplinary proceedings,

the inquiry report, the order of dismissal and the order rejecting the

departmental appeal are ordered to be quashed. Consequently, the writ petitions, being **C. W. P. No. 11202 of 2010**, **C. W. P. No. 22244 of 2010** and **C. W. P. No. 2745 of 2015**, are allowed in the above terms. The petitioners will be entitled to all consequential benefits.

No costs.

(DEEPAK SIBAL)
JUDGE

April 23, 2015
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