

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO. 341 OF 2015
IN
WP/2489/2002**

Mahadeo s/o Sitaram Bacche,
Age 60 years, Occu: Nil.,
r/o Phulenagar, Ardhapur,
Tq. Ardhapur, Dist. Nanded.

...PETITIONER

VERSUS

1. Shri U.S.Sondule,
Age 51 years, Occu. Service
Deputy General Manager,
Bank of Maharashtra,
Lokmangal Shivajinagar, Pune.

AND OTHERS.

...RESPONDENTS

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Mr. Pradeep Deshmukh, Advocate for Petitioner
Mr.P.M.Shah, Senior Counsel i/b Mr. Pradeep Shahane,
Advocate for Respondent Nos. 1, 2, 4, 7, 9, 10.

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CORAM : R. M. BORDE & P.R. BORA, JJ.

Dated: March 18, 2016

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PER COURT :-

1. The petitioner is alleging contempt against the respondents for the reason that, according to the petitioner, the appeal that has been directed to be decided, has not been dealt with in accordance with law and, as such, according to the petitioner, there is violation of the directions issued by this Court while disposing of Writ Petition No.2489/2002.

2. The petitioner was aggrieved by an order of dismissal issued by the employer at the conclusion of the departmental proceedings initiated against him. The appeal was presented to the Board of Directors which came to be decided on 22nd February, 2002. The petitioner challenged the decision rendered by the appellate authority by presenting aforesaid Writ Petition. While disposing of the Writ Petition, the Division Bench has observed in paragraph No.6 of the judgment as quoted below:

"6. We hold that the orders under challenge passed by the appellate authority are not passed in accordance with law as laid down in Regulation 31 of Marathwada Gramin Bank (Staff) Service Regulations 1980 Amendment 1982. We, therefore, set aside the orders of the Appellate Authority and remand the cases to the Appellate Authority. The Appellate Authority is directed to decide the appeals of the petitioners afresh without being influenced by what is stated in this judgment. The appeals shall be decided in accordance with law within a period of three months from today."

3. The petitioner contends that though the appellate authority has decided the appeal, according to him, the same has not been decided in accordance with the law. It is the contention of the petitioner that he was not called by the appellate authority and his contentions were not considered. As such, there is a breach of the directions issued by this Court, referred to in above quoted paragraph.

The petitioner also relies upon an opinion expressed by one of the Directors of the Bank which was forwarded to the President on 30.3.2015 to support the contention that the

appeal is not decided in accordance with law.

4. The appeal is presented in terms of Regulation No.31 of the Marathwada Gramin Bank (Staff) Service Regulations, 1980, as amended in 1982. Regulation 31 reads thus:

" An Officer or employee shall have right of appeal against any order passed by an authority which injuriously affects his interest. "

Sub Regulation (1) reads thus:

" The appeal shall be preferred to the appellate authority mentioned in Reg.32 within thirty days of the date of service of the order appealed against. The appellate authority shall consider whether the findings of the disciplinary authority are justified and whether the penalty imposed is adequate and pass suitable orders as early as possible."

"Appellate Authorities" are prescribed in Regulation No.32 whereas the conditions which an appeal shall satisfy have been provided in Regulation No.33.

Regulation Nos.32, 33 and 34 read thus:

"32. An appeal shall lie -

- (a) in the case of an officer, to the Board,
- (b) in the case of an employee, to the Chairman.

33. Every appeal shall comply with the following requirements-

- (a) it shall be in writing and couched in polite and respectful language and shall be free from unnecessary padding or superfluous verbiage,
- (b) it shall contain all material statements and arguments relied on shall be complete in itself,
- (c) it shall specify the relief desired,
- (d) it shall be preferred within one month of the date of the order against which the appeal is made.

34. Appeals shall not be addressed to directors personally and any such action shall be deemed a breach of discipline."

5. On perusal of the relevant Regulations. it does appear that the appellate authority is expected to consider justiciability of the findings of the disciplinary authority and also to examine whether penalty imposed is adequate or not. Except the Regulations referred to above, there are no other Regulations prescribing the procedure in respect of hearing of the appeal. It does, therefore, will have to be concluded that the appellate authority shall scrutinize the record and deal with the appeal in accordance with Sub Regulation (1) as amended of Regulation 31 of the Regulations of 1980. The contention of the petitioner that he has not been extended an opportunity of personal hearing does not appear to be in contemplation of the Regulations framed by the Bank. We, therefore, do not find

that the appellate authority has failed to observe the directions issued by the Division Bench. Apart from this, as has been directed by the Division Bench of this Court, the appellate authority has decided the matter and recorded the judgment. It is always open for the contempt applicant to impeach the correctness of the order passed by the appellate authority and raise all relevant grounds, impeaching the said order. and challenge to said order can be considered in the light of such of those grounds those would be raised by the petitioner in appropriate proceedings.

6. So far as contempt jurisdiction exercisable by this Court is concerned, prima facie, we are of the view that the appellate authority has not committed any breach of the directions issued by the Division Bench.

The Contempt Petition is misconceived and hence stands rejected.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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