HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5642 of 2011

DATED : 01.08.2016

Between:

Smt M.M.C. Nanda Devi W/o.Ch.Rama Krishna,
Aged about 47 yrs, Occu : Deputy Manager,
State Bank of Hyderabad, Chikadapally Branch,
Hyderabad.

.. Petitioner

AND

The Chief General Manager,
Appellate Authority,
State Bank of Hyderabad,
Head Office, Gunfoundry,
Hyderabad & 3 others.

.. Respondents

The Court made the following:

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ORDER:

The petitioner was in Middle Management Grade-II. While she was working as Branch Manager of Tumukunta branch, she was sent on deputation to Hakimpet branch. Petitioner was served with charge memo dated 07.10.2009 containing four charges. As it turned out the Inquiry Officer held Imputation-1 (ii) and (iii) as proved and imputation (i) and (iv) as not proved. Finding of Inquiry Officer was accepted by the disciplinary authority. Imputation –1 (ii) & (iii) read as under:

> ***(ii) CSO failed to arrange for remitting the excess cash over and above the retention limit to the designated Currency Chest branch on 7.5.2008 even though in the cash transaction report the cash balance was indicated as Rs.22,44,573.***
>
> ***(iii) The CSO as Branch Manager, failed to ensure authentication of the alterations of denomination of Rs.1,000/- in the Verification Register as well as Cash Balance Book from 102 t0 1002 pieces.***

2. The disciplinary authority passed orders on 31.08.2010 imposing punishment of reduction of pay by two incremental stages in the time scale of pay with future effect of such reduction. Appeal preferred by the petitioner against the said order was rejected by the appellate authority vide his order dated 26.11.2010. The order of disciplinary authority as affirmed by appellate authority is under challenge in this writ petition.

3. Heard Sri V. Narsimha Goud, learned counsel for the petitioner and Sri A. Krishnam Raju, learned standing counsel for the respondents.

4. By elaborately taking through the charges, findings of the Inquiry Officer and the order of the disciplinary authority as affirmed by the appellate authority, learned counsel for the petitioner contended that the punishment imposed against the petitioner amounts to arbitrary exercise of power. He

further submits that the disciplinary action was initiated and punishment was imposed though no misconduct was committed by the petitioner.

4.1 Learned counsel for the petitioner further submits that the sum and substance of the allegation in the second charge is that excess amount was retained than the limit prescribed to the Branch, without depositing in the cash chest branch. Therefore, non-remittance would amount to grave mis-conduct. The plea raised by the petitioner was accepted by the Inquiry Officer with reference to the fact that there was no material on record to show that Hakimpet branch was tagged with R.P. Road Branch. Once this contention of the petitioner was accepted, the Inquiry Officer could not have held petitioner as guilty on the ground that money in excess ought to have been deposited in R.P.Road branch. The stand of the petitioner was that she was not informed that money to be deposited in R.P.Road branch. In fact petitioner carried the money by engaging an autorickshaw to Tumukunta branch and returned to the original branch and credited the money in the said branch. Having accepted the defence of the petitioner, the Inquiry Officer could not have held the petitioner as guilty of Imputation 1(ii) also.

4.2 According to learned counsel for the petitioner the sum and substance of the allegation in the third charge is that the petitioner did not authenticate the corrections made in the cash register on 7th and 8th May, 2008. However, the Inquiry Officer holds it as a procedural lapse by the petitioner and therefore, held the charge as proved. He would therefore submit that when the Inquiry Officer held that it was only a procedural lapse holding the petitioner as guilty does not arise.

4.3. He submits that in both cases no loss is caused to the Bank and bank's interest was not exposed. Even assuming what has been done by the petitioner is not correct, they were only procedural lapses without any intention to cause loss to the Bank or disrupt the banking services.

4.4. Learned counsel further submits that in the background of these allegations and the defence of the petitioner, when the bank interest was not sacrificed and was not subjected to any loss, the question of visiting with punishment would not arise and punishment imposed is not valid in law.

4.5 He would further submit that even assuming that disciplinary authority is entitled to take action, the punishment imposed is too severe and disproportionate to the delinquency alleged and proved and on account of minor lapses, grave punishment is imposed which will have cascading effect in the entire service of the petitioner and on this ground alone the punishment is liable to be set aside.

5. Sri A. Krishnam Raju, learned standing counsel for the respondents submit that admittedly petitioner did not authenticate her signature in the cash register when corrections were made and that is a serious mis-conduct on her part. If the cash do not tally or corrected entries are not authenticated there is a possibility of any person mis-using the entries and causing financial mis-management. Therefore, as a branch manager, it is her primary duty to authenticate any corrections made in the cash register.

5.1 He further submits that every branch is required to maintain certain cash reserve and if there is any excess cash than the prescribed limit, it is mandatory for the concerned branch to deposit the excess cash in the branch recognized as cash chest. In the instant case R.P.Road branch was recognized as Cash chest and petitioner ought to have credited the excess amount in the cash chest of the said branch. The cash chest branch will have higher security protocol and therefore cash kept in such branch would be safe. Whereas smaller branches do not have such high security protocol and therefore, certain cash limit is prescribed. Thus, petitioner committed mis-conduct in not depositing the excess cash in the cash chest. These two allegations having been proved the disciplinary authority has come to correct conclusion and imposed appropriate punishment. The punishment imposed is commensurate to the delinquency alleged and proved. Therefore, it is justified and prayed to dismiss the writ petition.

6. Before analyzing respective contentions, it is appropriate to note that as fairly submitted by learned standing counsel, petitioner was not visited with any punishment earlier to the impugned disciplinary action and the conduct of the petitioner is good. In the above background, the nature of allegations proved against the petitioner is required to be considered.

7. A bare perusal of the allegations in Imputation (iii) is that the petitioner did not authenticate the corrections made in the cash register. It is seen that the first entry as against denomination of Rs.1000/- notes originally written by the head clerk of the bank as 102 and having realized that the total Rs.1000 notes are 1002, he corrected it as 1002 and he has also put his initial against such correction. In addition to the corrections made against the relevant entry made, he has also written again as 1002 just above the typed entry of 1000 under the details column. The total amount shown in the relevant page of the cash register is tallying with the total amount arrived at after the said correction. As fairly submitted by learned standing counsel there is no dispute about the total amount available on the concerned date and the total number of 1000 rupee notes was 1002 and the total cash amount reflected in the register is tallying with the physical cash available.

8. In this background if we look at the allegation made against the petitioner it is non-authentication on the said correction made. Thus, what is alleged against the petitioner is at the most can be attributed as a minor lapse on the part of the petitioner. But however it cannot be said that the petitioner was not performing her duties properly and there is dereliction of duties, when cash available with the Branch was tallying with the entries made in the relevant column of the cash register.

9. Coming to the allegation (ii), it is alleged that the petitioner did not deposit the excess cash available with the branch in the cash chest. The primary defence of the petitioner was that there is no material available on record that R.P.Road branch was recognized as cash chest for this branch. In the above background of the defence, which was accepted by the Inquiry Officer it has to be seen that petitioner carried excess cash in an autorickshaw hired by the petitioner, which is not in dispute, and went to Hakimpet branch to deposit the amount. This would show that petitioner was under bonafide impression that petitioner has to deposit the excess amount in Hakimpet branch. Since the Hakimpet branch refused to receive the amount, she returned to her branch and re-credited the amount. Re-crediting of amount is reflected in the relevant records. Thus, the only allegation remains is petitioner ought to have deposited the excess amount in the cash chest. It is not the case of the respondent-Bank that this amount is mis-used and has not

been correctly reflected in the subsequent transactions. Thus, the mistake of not crediting the amount in R.P.Road branch can be treated as a bona fide mistake, more so when there was nothing on record indicating R.P.Road branch as cash chest.

10. In view of the above analysis the punishment imposed against the petitioner is required to be seen. Petitioner was visited with punishment of reduction of basic pay by two stages in the time scale for a period of two years, which is a major punishment. The consequence of such punishment is that the pay of the petitioner is reduced by two stages in the time scale and such reduction would operate for two years and it would be cumulative. In other words, this reduction of basic pay by two stages would never be restored.

11. It is also seen from the order of the disciplinary authority that there is no discussion on the explanation submitted by the petitioner to the show cause notice or to the report of the Inquiry Officer. In fact the order is vitiated on this ground alone. Even the appellate authority does not assign reasons as to why the explanation submitted by the petitioner is not valid and merely affirms the decision of the disciplinary authority.

12. In view of the above discussion, though it cannot be said that petitioner was not guilty in performing her duties and responsibilities with due diligence, but at the same time the punishment imposed against her is disproportionate and too severe to what is alleged and proved more particularly in the background of assessment made by the Inquiry Officer on the defence of the petitioner. It amounts to arbitrary exercise of power. Thus, the order of punishment imposed by the disciplinary authority as affirmed by the appellate authority impugned in this writ petition is set aside and the matter is remitted to the disciplinary authority to impose less severe penalty, having regard to the delinquency alleged and proved.

13. Accordingly, the writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

1st August, 2016
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