

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.19855 of 2013

Date of decision:1.3.2016

Balwant Bhatia

... Petitioner

Versus

The Appellate Authority (The Board of Directors)
Sutlej Gramin Bank & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate, with
Mr. Manhar S. Saini, Advocate,
for the petitioner.

Mr. R. Kartikeya, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. Without entering into the merits of the case, this petition deserves to succeed on the short ground that the impugned order dated December 6, 2012 [annex P-4] is a non-speaking order containing no reasons whatsoever for dismissing the appeal. The right to appeal is provided by Regulation 47 of the Faridkot Bathinda Ksetriya Gramin Bank, Bathinda (Punjab) (Officers and Employees) Regulations 2002 in the following terms:-

“47. Right to appeal

- (i) An officer or employee shall have right to appeal against any order passed under these Regulations which injuriously affects his interest.

(ii) The appeal shall be preferred to the Appellate Authority mentioned in Regulation 48 within 45 days of the date of receipt of the order appealed against. The appellate authority shall consider the appeal and pass suitable order preferably within a period of 6 months.”

2. The appellate authority is constituted under Regulation 48 to whom appeal shall lie. The impugned order dated December 6, 2012 deserves reproduction to see what it lacks. It reads like this:-

“SUB: Your appeal dated 12.08.2011 before the Appellate Authority against the order dated 29.6.2011 of Disciplinary Authority

We may inform that your captioned appeal was placed before the Appellate Authority i.e. Committee of the Board. After going through your appeal dated 12.08.2011, charge-sheet dated 10.12.2008 and record of the case, the Appellate Authority came to the conclusion that the major penalty of 'DISMISSAL' awarded by DA vide order dated 29.6.2011 commensurate with the gravity of misconduct of CSO and dismissed the appeal.

As such, your appeal dated 12.08.2011 stands dismissed and rejected.”

3. The necessity of recording reasons in an order which adversely affects rights of parties is fundamental to the rule of law. It is an obligation cast on the administrator to abide by disclosing the reasoning which has weighed in his mind. This a strict-compliance rule of recording reasons is required to be followed keeping in view the

Constitution Bench judgment of the Supreme Court in **S.N.Mukherjee v. Union of India**, (1990) 4 SCC 594.

4. The other serious infirmity in the order is that it has been passed without affording an opportunity of hearing to the petitioner and it is, therefore, in breach of principles of natural justice. On both these counts, the impugned order is not legally sustainable in the eyes of law.

5. As a result the petition is allowed. The impugned order dated December 6, 2012 is set aside. The case is remanded to the competent authority for it to act under Regulation 48 by considering and deciding the appeal afresh after affording a reasonable opportunity of hearing to the petitioner and considering all the pleas taken by him on facts and law before the final order is rendered.

6. Apart from that, this Court makes no comment on any of the issues arising in this petition on their merits, which are left open for debate before the appellate authority. However, the result of setting aside of the impugned order would not automatically lead to reinstatement. Reinstatement and other service benefits will remain open to determination by the appellate authority in the first instance. In case, the final order is adverse to the interest of the petitioner, he would remain at liberty to approach this Court again.

7. Dr. Sidhu, learned Senior counsel appearing for the petitioner prays that the appellate authority may be required to pass the final order within a time frame. The request is justified and thus accepted.

8. It is directed tha the appellate authority shall consider and decide the appeal within 8 weeks from the date a certified copy of order

is made available to it. The petitioner will not be precluded from raising any additional ground that he may wish to take in support of his case for setting aside the order of dismissal. If any additional grounds are pressed by the petitioner they shall be in writing and presented within ten days from the date a certified copy of order is made available, so as not to disturb the time schedule.

**(RAJIV NARAIN RAINA)
JUDGE**

1.3.2016
monika