

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 2556 of 2002**

Anil Kumar Shukla, aged about 46 years, S/o Late Shri Ramdishal Shukla, Senior Manager, Durg-Rajnandgaon Gramin Ban Branch, Dasrangpur, Distt. Kawardha (M.P.)

---- Petitioner

Versus

1. Durg Rajnandgaon Gramin Bank Through General Manager, Head Office, J.E. Road, Rajnandgaon
2. Asstt. or Deputy General Manager RRB Retail Banking Department Dena Bank head office Makers tower E 8th Floor Cuf Pared, Mumbai.
3. The Chairman & Disciplinary Authority Durg Rajnandgaon Gramin Bank Head Office, Rajnandgaon, Distt. Durg (C.G.)

---- Respondents

For Petitioner	: Shri Prasoon Agrawal, Advocate
For Respondents	: Shri N. Naha Roy, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****01/05/2017**

(1) The petitioner, who was posted as Senior Manager at Devkar Branch, Durg in Durg-Rajnandgaon Gramin Bank, was served with the charge sheet on 23.05.1998 and ultimately he was served with the punishment of withholding of two annual increments with cumulative effect and he was reverted from post I to post II by order dated 09.08.2002, against which he preferred appeal before the appellate authority under Regulation 31(1) read with Regulation 32 of Staff Service Regulation (Amendment), 1982 {henceforth 'Regulation, 1982}.

(2) The appellate Authority has dismissed the appeal vide impugned order dated 07.03.2002 (Annexure P-5), against which instant writ petition has been filed questioning the same.

(3) Shri Prasoon Agrawal, learned counsel appearing for the petitioner would submit that the appeal was required to be considered in light of Regulation 31(2) of the (Amendment), 1982 and reasoned and speaking order was required to be passed but while passing the impugned order by the appellate authority, provisions of Regulation 31(2) of the Regulation, 1982 has not been complied with and non-speaking order of punishment of withholding of two annual increments and order of reversion from post I to post II has been passed against the petitioner, which is contrary to the law and is liable to be dismissed.

(4) On the other hand, counsel for the State would oppose the writ petition.

(5) I have heard learned counsel appearing for the parties and gone through the rival submissions made hereinabove with utmost circumspection. and perused the order impugned with utmost circumspection.

(6) Regulation 31 (2) provides as under:-

“Right to appeal 31 (1) xx xx xx

(2) The appeal shall be preferred to the appellate authority mentioned in regulation 32 within 30 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.

(7) Regulation 31(2) of the Regulation, 1982 provides that 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.

(8) Thus, the appellate Authority is obliged to record two folds findings i.e. whether the findings of the disciplinary authority are justified *and* whether the

penalty imposed is adequate or not.

(9) If order of the appellate authority is examined in light of the aforesaid regulation, it is quite vivid that both the conditions have not been complied with while passing order impugned (Annexure P-5); and the appellate Court has simply dismissed the appeal holding that the petitioner has failed to produce any documents and there is no ground to set aside the impugned order and the order of appellate authority is contrary to the regulation 32 of the Regulation, 1982.

(10) Accordingly, the impugned order dated 07.3.2002 is set aside. Respondent-Bank is directed to reconsider the appeal of the petitioner afresh in light of the provisions contained in Regulation 31(2) of the Regulation, 1982 within a period of three months from the date of receipt of production of certified copy of this order.

(11) The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-