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HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 747 of 2002

Harjeet Singh

---- Petitioner

Versus

Chhattisgarh Rajya Gramin Bank

---- Respondent

CAV ORDER

POST ON 22nd MARCH, 2017

Sd/-
Manindra Mohan Shrivastava
Judge



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HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 747 of 2002

Harjeet Singh Ram Gadiya S/o Guru Bax Singh, aged about 42 years, R/o
Railway Crossing Tumgaon Road, Mahasamund, Raipur, (C.G.)

---- Petitioner

Versus

Chhattisgarh Rajya Gramin Bank Through Its Chairman, 15, Recreation
Road, Choubey Colony, Police Station Amapara, Raipur, Civil And Revenue
District Raipur, (C.G.)

---- Respondent

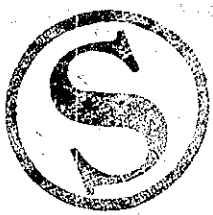
For Petitioner	:	Shri T.K. Jha, Advocate
For Respondent	:	Shri B.D. Guru, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

C A V Order

22/03/2017

1. By this petition under Article 226/227 of the Constitution of India, the petitioner has assailed legality and validity of order dated 6.4.1994 passed by the Disciplinary Authority imposing penalty of dismissal from service as also order dated 20.2.1995 passed in appeal by which the petitioner's appeal has been dismissed and the order of penalty affirmed.
2. While the petitioner was working as Field Supervisor in the service of the then Bilaspur Raipur Kshetriya Gramin Bank (A Regional Rural Bank), a departmental enquiry was instituted against the petitioner vide charge sheet dated 10.7.1987. It was alleged that during the period the petitioner remained posted as Branch Manager of Branch Korbi, Regional Rural Bank, he committed serious financial irregularity by sanctioning loan under Integrated Rural Development Project, in the name of fake persons, without following the established procedure of disbursement of loan. It was alleged that most of the persons in whose names loans were sanctioned and



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disbursed, they were not found and upon enquiry, it was revealed that various fake accounts were got opened in the name of fake persons and the withdrawals made under false loan cases in the name of non-existent persons were deposited in those fake accounts for his own personal benefits. The petitioner filed reply denying charges. Enquiry Officer was appointed by the Disciplinary Authority and the Enquiry Officer, after holding an enquiry, submitted enquiry report. Though the petitioner was afforded opportunity to submit his defence statement against the enquiry report, the petitioner failed to do so and finally, the Disciplinary Authority vide impugned order dated 6.4.1994, imposed penalty of dismissal from service. Aggrieved by the impugned order, the petitioner preferred an appeal which too was dismissed vide order dated 20.2.1995, giving rise to instant petition. The challenge to the departmental enquiry and the order of penalty has been assailed by the petitioner on the following grounds:

- A. That the petitioner was not supplied the documents which were demanded by him, which resulted in violation of principles of natural justice.
 - B. That rejection of petitioner's request for engaging a defence assistant seriously prejudiced him in his defence, because he was pitted against expert officer of the department as the presenting officer.
 - C. That the petitioner was not allowed to lead oral and documentary evidence in defence. They were illegally and arbitrarily rejected by the enquiry officer, thereby seriously prejudicing the petitioner in his defence.
3. Learned counsel for the petitioner contended that though, at the initial stage of enquiry, the petitioner stated that he did not want to engage a defence assistant, later on, as the enquiry progressed, due to various intervening circumstances like institution of a parallel criminal case against him on similar charges, an occasion arose for the petitioner to seek appointment of defence assistant. The petitioner was pitted against an expert department officer of higher rank who was presenting the case of the prosecution. In



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these circumstances, denial of defence assistant seriously prejudiced the petitioner as he could not effectively defend himself, he being a layman. Learned counsel for the petitioner contented that the nature of charges levelled against the petitioner were not only grave but also very complicated and it was not within the competence of the petitioner to effectively defend himself without proper legal assistance or at least defence assistant of the department, to be provided by the department. It was next contended that the petitioner was not supplied the documents as demanded by him. It is argued that even all the documents relied upon by the prosecution were also not supplied to the petitioner and, therefore, it became impossible for the petitioner to know exactly what was the case of the prosecution and the documentary evidence on which charges were based. This adversely affected the petitioner's right of effective defence. Lastly, it was contended that when the petitioner was asked to submit list of defence witnesses and documents, which were submitted by the petitioner, the enquiry officer rejected them at the threshold by stating that some of them were not relevant. It was argued that by rejecting most material oral and documentary evidence, which the petitioner intended to rely upon in rebuttal of charges, the petitioner's defence was seriously prejudiced. In this manner, it is argued, the entire enquiry was vitiated on account of unfairness, biased attitude of enquiry officer, denial of documents, opportunity to lead defence witnesses and to engage a competent legal assistant/departamental defence assistant. In support of his submissions, reliance has been placed on the decision of the Supreme Court in the case of *State of Haryana and Anr. Vs. Rattan Singh* (AIR 1977 SC 1512) and order dated 4.7.2012 passed in Writ Appeal No.182 of 2011 (*Bilaspur Raipur Kshetriya Gramin Bank Vs. Ganesh Ram Chalak*).

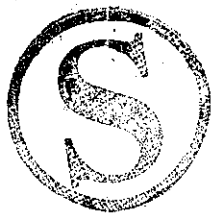
4. Per contra, learned counsel for the respondent submits that petitioner's grievance against non-supply of document is vague and unspecific. The petitioner has not specified which documents, relied upon by the prosecution, were not supplied to him. Referring to the proceedings of departmental enquiry, as contained in the documents (filed collectively as Annexure 'A-7'), learned counsel for the respondent submitted that the proceedings revealed that all the prosecution documents were duly supplied

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to the petitioner and all through the enquiry, till the petitioner appeared, he did not raise any objection, oral or in writing, regarding non-supply of any particular document. Moreover, the petitioner has failed to specify as to how he was prejudiced in his defence on account of non-supply of any particular document. Replying to other grounds, learned counsel for the respondent submitted that, in fact, the petitioner did not cooperate during enquiry. At the beginning of the enquiry as early as on 9.3.1988, when the petitioner was given an opportunity to engage a defence assistant, the petitioner stated that he would defend himself. However, thereafter, the petitioner did not participate in the enquiry and remained absent on most of the days of hearing and, therefore, the enquiry officer had no option but to proceed. On 9.9.1989, the presenting officer completed prosecution case and thereafter the case was adjourned for almost two years. The petitioner was granted time up to 31st July, 1991 to submit reply. The petitioner did not submit his defence statement. The enquiry report was finally submitted on 7.9.1992. Despite repeated opportunities, the petitioner did not avail opportunity to submit his defence. It is also submitted that it was within the authority of the enquiry officer to require the petitioner to establish relevancy of oral and documentary evidence which were proposed to be led in defence. This aspect was considered by the enquiry officer and the enquiry officer gave its ruling. The petitioner did not dispute it and allowed the enquiry to be completed and order to be passed. Lastly, it is submitted that even in the appeal filed by the petitioner, the petitioner raised vague grounds which were found to be without any merit and therefore, the appeal was also dismissed.

5. I have considered the rival submissions made by learned counsel for the parties and perused the records.
6. In so far as petitioner's grievance of non-supply of documents is concerned, the pleadings contained in paragraph 5.10 of the petition do not indicate as to which document was not supplied to the petitioner. It has been vaguely stated, without any specific details, as to which document was not supplied despite demand made in that regard. All that has been stated by the petitioner in his pleadings, as contained in para 5.10 of the petition is that "the petitioner had demanded various documents". The only other averment made in this paragraph is "whenever the petitioner has asked for the



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documents, the same were refused". Except aforesaid bald pleadings, without any specific details, no material has been placed by the petitioner in this regard. The petitioner has not even placed on record any single application in writing, bearing acknowledgement of receipt of the same by the enquiry officer, to establish the aforesaid plea of non-supply of any document much less, documents relied upon by the prosecution so as to show that the petitioner was prejudiced on account of non-supply of documents. Plea in this regard, if I may say so, is blissfully vague and bereft of any material. On the contrary, a perusal of enquiry proceedings, cumulatively filed as Annexure A-7 by the petitioner, revealed that the petitioner was supplied documents. In this regard, minutes of proceedings dated 9.3.1988 clearly show that the documents of the prosecution were supplied to the petitioner. The minutes of proceedings dated 9.4.1988 also clearly establishes that all the documents relied upon by the prosecution were supplied to the petitioner and his acknowledgment was also obtained. Not only this, the petitioner was also allowed inspection of original records. When the enquiry officer enquired from the petitioner whether he has inspected the original records, photocopies of which have been supplied to him, the petitioner admitted that he has not only obtained photocopies, but also inspected the original records. Therefore, it is clear that the grievance that the documents were not supplied to him, has no legs to stand. Neither in the pleadings nor in the record of proceedings (Annexure A-7), there is anything to indicate that after supply of documents relied upon by the prosecution and inspection of original records, the petitioner submitted any application for supply of document other than those relied upon by the prosecution, to establish his defence and those documents, despite being in possession of the respondent, were neither allowed to be inspected nor copy supplied so as to say that relevant documents were withheld from the petitioner.

7. In so far as challenge to the departmental enquiry and the penalty order on the ground of rejection of prayer of engaging defence assistant is concerned, the respondent have come out with emphatic stand and replied that on 9.3.1988 when the petitioner was given an opportunity to defend the case with the help of defence counsel, the petitioner expressed that he would



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defend his case himself. Though the petitioner filed rejoinder, the aforesaid assertion of the respondent has not been disputed by the petitioner. However, the petitioner has sought to justify through his averment in para-6 of rejoinder that the petitioner in the changed circumstance, made a request as late as on 5.8.1991 to engage defence counsel. The proceedings of enquiry (Annexure A-7) read along with the reply of the respondent would show that the petitioner remained absent on various dates during enquiry. He was absent from 17.3.1988 to 21.11.1988. On 9.8.1989, the presenting officer had completed prosecution case and thereafter for about two years, the petitioner did not take any steps to defend his case. Finally, he was granted time up to 31st July, 1991 to submit reply. It was only at this belated stage that the petitioner came out with a request for engaging a defence counsel on 5.8.1991. The enquiry officer was therefore fully justified in rejecting petitioner's prayer at such a belated stage of enquiry. During the course of hearing before this Court, it was enquired from the petitioner whether the relevant rules applicable in the matter of departmental enquiry contained any specific provision giving any such right to engage defence assistant, but no specific provision could be brought to the notice of the Court. In any case, the petitioner was afforded this opportunity at the very threshold of the enquiry, as early as possible on 9.3.1988, on which the petitioner expressed that he would be defending his case himself. Moreover, present is not a case where the petitioner was pitted against any legal expert presenting the case of the prosecution. Therefore, on facts also, this Court is unable to except the submission of learned counsel for the petitioner that rejection of petitioner's prayer for engagement of defence assistant was unjustified, illegal or had the effect of denying the petitioner a reasonable opportunity of hearing. In this regard, it is relevant to refer to clause (1) & (2) of Regulation 30 of the Bilaspur Raipur Kshetriya Gramin Bank Staff Service Regulations, 1980, as below:-

"30. (1) Without prejudice to the provisions of other regulations, an officer or employee who commits a breach of these regulations or who displays negligence, inefficiency or indolence, or who knowingly does anything detrimental to the interests of

the Bank or in conflict with its instructions or who commits a breach of discipline or is guilty of any other act of misconduct, shall be liable to the following penalties :-

- (a) Reprimand;
- (b) delay or stoppage of increments or promotion;
- (c) degradation to a lower post or grade, or to a lower stage in his incremental scale;
- (d) recovery from pay of the whole or part of any pecuniary loss caused to the Bank by the officer or employee;
- (e) Removal from service which shall not be a disqualification for future reemployment
- (f) dismissal.

(2) No officer or employee shall be subjected to the penalties referred to in clause (b), (c), (d), (e) or (f) of sub-regulation (1) except by an order in writing signed by the Chairman and no such order shall be passed without the charge being formulated in writing and given to the said officer or employee so that he shall have reasonable opportunity to answer them in writing or in person, as he prefers and in the latter case his defence shall be taken down in writing and read to him.

Provided that the requirements of this sub-regulation may be waived, if the facts on basis of which action is to be taken have been established in a court of law or court martial, or where the officer or employee has absconded or where it is for any other reason impracticable to communicate with him or where there is difficulty in observing them and the requirements can be waived without injustice to him. In every case where all or any of the requirements of this sub-regulation are waived, the reasons for so doing shall be recorded in writing.

(3) x x x

(4) x x x

8. The Regulations incorporate the principles of natural justice that no order imposing any penalty shall be passed without the charge being formulated in writing and given to the officer or employee so that he shall have reasonable opportunity to answer them in writing or in person, as he prefers and in the latter case his defence shall be taken down in writing and read to him. Therefore, on facts, the aforesaid ground to assail legality and impropriety of the enquiry proceedings and consequent order of penalty cannot be accepted and liable to be rejected.
9. Learned counsel for the petitioner has also stated that the petitioner sought to produce in defence, certain documents and witnesses which were relevant but arbitrarily rejected by the enquiry officer. On this issue, upon perusal of proceedings of enquiry, filed collectively as Annexure A-7, I find that during the proceedings of departmental enquiry, on 9.4.1988, an objection with regard to relevancy of some of the proposed defence witnesses was raised by the presenting officer and the petitioners sought adjournment to establish the relevancy. He was granted opportunity also to establish relevancy of witnesses No. 4, 5, 6, 8 & 9. On 15.10.1988, the presenting officer requested the enquiry officer to disallow the petitioner's proposed witnesses No.4, 5, 6 & 8 as the petitioner failed to establish the relevancy in the context of charges levelled against him. The enquiry officer, on the basis of the submissions made by the presenting officer and the petitioner, particularly taking into consideration that the petitioner failed to satisfy the relevancy and absence of any document, that those proposed witnesses as cited, they were either customers or applicants for loan, gave his ruling on 21.11.1988 that witnesses No. 4, 5, 6, 8 & 9 are not relevant. In fact on that date, when this ruling was given by the presenting officer, the petitioner was not even present during enquiry. In the proceedings of enquiry dated 5.8.1991, it has been recorded that despite various opportunities granted to the petitioner, the petitioner remained absent on earlier dates and even though he was granted opportunity to submit his written defence by 31st July,

1991, he failed to submit the same within the stipulated period. On 5.8.1991, the petitioner appeared to submit that now he wants to engage a defence counsel. The presenting officer, recording that the petitioner was not cooperating in the enquiry and even after fixing a date of the enquiry after two years, the petitioner failed to submit his defence, rejected petitioner's claim for engaging defence counsel at that stage. It is relevant to note that even though the remaining witnesses of the defence were not disallowed, they were also not examined by the petitioner. This only reflects that the petitioner was only buying time. Therefore, the conduct of the petitioner disentitles him to any relief on the ground that he was denied reasonable opportunity of hearing to defend himself.

10. The petitioner has relied upon the judgment in the case of *State of Haryana* (supra) and order passed in the case of *Bilaspur Raipur Kshetriya Gramin Bank* (supra). On facts of the case and considerations made by this Court as above, I do not find that the petitioner is entitled to any relief and the decision cited as above are distinguishable on facts.

11. In the result, I do not find any merits in the petition. The petition is, therefore, dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge