

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No. 655 of 2003

S.G. Goverdhan, S/o Shri G.K. Goverdhan, Aged 55 years, R/o Mamta Nagar, Rajnandgaon (C.G.)

---- Petitioners

Versus

1. Dena Bank, A Banking Company constituted under the Banking companies (Acquisition and Transfer of Undertakings) Act, 1970, Through its Chairman-cum-Managing Director, Having its Head Office at Maker Towers, Cuffee Parade, Kulaba, Mumbai -400005.
2. Assistant General Manager (ROI), In the office of General Manager, Dena Bank, 207, Akashdeep Building, Badakhamba Road, New Delhi -110001.
3. Dy. General Manager (CAD), Dena Bank, Head Office Maker Towers, Cuffee Parade, Kulaba, Mumbai -400005.

---- Respondents

For Petitioner : Mr. Ashish Shrivastava & Shri Somya Rai, Adv.
For Respondents : Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

23/10/2017

(1) The petitioner was inflicted with penalty of dismissal from Bank's Service with immediate effect without notice. Dissatisfied with the order of penalty, the petitioner preferred appeal under Regulation 17 of the Dena Bank Officer Employees' [Discipline And Appeal] Regulations, 1976 (henceforth, 'Regulations, 1976') before the appellate Authority raising number of grounds in twenty-two pages of the memo of appeal.

(2) The appellate Authority by its impugned order dated 6.2.2002, dismissed the appeal filed by the petitioner holding that the order of

“dismissal from the Bank’s service with immediate effect without notice” is strictly in accordance with law.

(3) Feeling aggrieved and dissatisfied with the order of appellate authority affirming the order of dismissal passed by the Disciplinary Authority, the instant writ petition has been filed questioning the same.

(4) Learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law, as no charge sheet was issued in accordance with the Regulation, 1976 and the appellate order is not in tune with Regulation 17(ii) of the Regulations, 1976.

(5) Per contra, learned counsel for the respondents while supporting the impugned order would submit that proper opportunity of hearing was afforded to the petitioner during the departmental enquiry.

(6) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(7) Regulation 17(ii) of the Regulations, 1976 reads as under:-

17(ii) An appeal shall be preferred within 45 days from the date of receipt of the order appealed against. The appeal shall be addressed to the Appellate Authority and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the Appellate Authority. The Appellate Authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate pass appropriate orders. The Appellate Authority may pass an order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such

direction as it may deem fit in the circumstances of the case.”

(8) A careful perusal of Regulation 17(ii) of the Regulations, 1976 would show that the Appellate Authority would consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders.

(9) A careful perusal of the memo of appeal filed by the petitioner would show that number of grounds have been raised that the charge sheet has been issued without documents and without list of witnesses and the disciplinary authority is not the appropriate authority under the Regulations, 1976 for imposing penalty of dismissal from service *but* the appellate authority simply held that charge sheet has been issued as per the provisions of the Regulations, 1976 and the disciplinary authority has rightly agreed with the findings recorded by the Enquiry Officer and the penalty imposed upon the petitioner is just and proper.

(10) The appellate Authority has not taken pain to consider and marshal the material available on record before reaching to the finding that the findings recorded by the disciplinary authority are justified and also not considered the fact that as to whether penalty is excessive or inadequate and simply agreed with the findings recorded by disciplinary authority and the impugned order has been passed. The appellate Authority ought to have considered the material available on record to reach to an independent finding as to whether the petitioner has misconducted himself during the service and further he did not record sufficient reasons for holding so after appreciating the material available on record. Merely concurring with the findings so recorded by the disciplinary authority, the impugned order has been passed. It appears

that appeal has not been heard and decided in accordance with the Regulations, 1976, and therefore, the impugned order dated 6.2.2002 is liable to be and is hereby set aside. The matter is remitted back to the appellate authority to consider the appeal afresh after affording due opportunity of hearing to both the parties expeditiously in accordance with law preferably within a period of three months from the date of receipt of certified copy of this order.

(11) The writ petition is allowed to the extent indicated hereinabove.
No order as to costs.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-