

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

WRIT PETITION NO. 5262 OF 2015

Kalandar Sikandar Tadavi ...Petitioner

VERSUS

The Maharashtra Gramin Bank,
Head Office, Nanded ...Respondent

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Shri A.I.Deshmukh, advocate for petitioner

Shri P.L.Shahane, advocate for respondent

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 10th January, 2017

O R D E R :-

The petitioner herein, at the relevant time, was working as Assistant Manager with the respondents. Departmental inquiry was initiated against the petitioner for three charges. The inquiry Officer submitted its report holding that the charges are proved. The Disciplinary Authority imposed punishment of dismissal of petitioner from service. The petitioner filed an

appeal before the Appellate Authority. The Appellate Authority partly allowed the appeal converting punishment of dismissal into compulsory retirement. The said order is assailed in the present Writ Petition.

2. Mr. Deshmukh, learned counsel for the petitioner submits that the inquiry has not been conducted in free and fair manner. Proper opportunity was not given to the petitioner. The copies of the document relied by the respondent were never supplied to the petitioner. In view of that the principles of natural justice were flouted. The inquiry conducted by flouting basic principles of natural justice stands vitiated. The learned counsel further submits that original documents were not brought in the inquiry proceedings. Only on the basis of Xerox copies, the Inquiry Officer concluded that the signatures on the withdrawal receipts were fictitious and forged. Comparison could not have been made on the basis of Xerox documents. The learned counsel

submits that no loss has been caused to the Bank. The amount of loan disbursed has been totally deposited by the borrowers. Even the accounts have been approved by the higher authorities. When no loss has been caused to the Bank, even assuming that there was some irregularity, the punishment is too disproportionate. The learned counsel further submits that whole inquiry has been conducted in slipshot manner. The evidence is also not properly appreciated. According to the learned counsel, the appeal preferred has been decided without giving any reasons. The long service rendered by the petitioner of more than 20 years has not been considered. The impugned order be quashed and set aside.

3. Mr.Shahane, learned counsel for the respondent submits that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India would not reappreciate the evidence. Grave charges of misconduct are proved against the petitioner. By making fictitious

signatures huge amount was withdrawn by the petitioner. When the inspecting officer had been to the Branch and asked the petitioner to show the documents of 18 accounts, to which loans were shown to have been sanctioned, the petitioner did not provide the said documents and when the inspecting officer came on the next day it was shown that, in all 18 accounts the amount has been deposited and accounts are closed down. Also there were other charges which are proved. The appellate authority has taken a lenient view by imposing lesser punishment of compulsory retirement than one imposed by the Disciplinary authority.

4. We have considered the submissions of learned counsel for the respective parties.

5. There cannot be any debate with proposition that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India would not sit as an appellate authority

over the decision given by the Disciplinary authority and/or appellate authority. It would not reappreciate the whole evidence unless it is shown that the appreciation of evidence by the Disciplinary authority and/or the appellate authority is perverse or arbitrary.

6. As far as contention of the petitioner of non-adherence to the principles of natural justice is concerned, the same does not appear to be borne out from the facts. It has come on record that the copies of documents were provided to the petitioner. Sufficient opportunities were offered to the petitioner to verify all the documents from the original. The charges against the petitioner were grave. The petitioner was holding responsible post and was the head at the particular Branch. It appears that by misusing his authority he had shown that 18 loans are sanctioned as against the fixed deposits without executing the documents and when the inspecting authority had been to the Branch no documents were

shown and on the next day all 18 accounts were shown to have been cleared by depositing the amounts, that is the finding arrived by the disciplinary authority and confirmed by the appellate authority. The other allegations are also with regard to the withdrawals made unauthorizedly, shortage of cash, etc.

7. Considering the gravity of the charges and the fact that the appellate authority has converted the punishment of dismissal into a lesser punishment of compulsory retirement, it would not be possible to entertain the grievance of the petitioner. The petitioner may move the authorities for benefits if admissible on account of punishment of compulsory retirement.

8. Writ Petition, as such, is dismissed. No costs.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)