NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 410 of 1999

- C.K.Tiwari, S/o Shri K. P. Tiwari, aged about 45 years, Branch Manager (Passing Officer), Branch Ramanjuganj, District Surguja (C.G.)

---- Petitioner

Versus

1. Chhattisgarh Rajya Gramin Bank, Head Office, Choubey Colony, Raipur (C.G.), through its General Manager (Admn.)

2. Area Manager, Chhattisgarh Rajya Gramin Bank, Regional Office, Ambikapur, District Surguja (C.G.)

---- Respondent

For Petitioner	Shri Ashish Shrivastava and Shri Afroj Khan, Advocates
For Respondent	None

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

12/11/2018

1. Prayer for amendment in the cause title is allowed. Let cause title be corrected during the course of the day.

2. The matter being more than 10 years old and there being decision by the Delay and Arrears Committee to dispose of all such writ petitions which are pending for more than 10 years expeditiously by 31st of January, 2019, the matter is taken for final disposal at motion stage.

3. Petitioner would call in question the order of punishment dated 06.05.1997 and the appellate order dated 11.12.1998, by which the petitioner was imposed punishment of bringing down to the lowest scale in the cadre and debarring him from the work of loan disbursal. The punishment was modified by withholding 6 increments with cumulative effect, debarring the petitioner from loan disbursal powers, recovery of the financial loss to the bank and non payment of full salary except the subsistence allowance paid during the suspension period on the principle of no work no pay.

4. While the petitioner was working as Branch Manager, Branch Samri, Surguja Kshetriya Gramin Bank, he was placed under suspension on 04.10.1991. A charge sheet was served on him vide Annexure-P-2 on 14.12.1991 informing that a departmental enquiry has been constituted against him on the following charges:-

I. Not depositing the amount recovered from the borrowers in their respective bank accounts.

II. Withdrawing amount from the account of the account holders by forging signatures.

III. Amount due to one Manglu towards cattle insurance claim was illegally transferred to the account of Rigu and thereafter withdrawing an amount of Rs.1100/- from the account of said Rigu by forging his signature.

IV. Sanctioning cattle insurance claim contrary to the instructions of the Bank Head Office.

5. In a duly drawn enquiry proceedings, the petitioner was afforded opportunity of hearing and thereafter the enquiry report (Annexure-P-14) was submitted finding Charge Nos.1,2 & 3 to be proved and Charge No.4 to be not proved. The report of the Enquiry Officer has referred to the statement of borrowers Shiv Prasad, Devlal, Ramharan, Shivbaran, Indrabasiya, Kabutari, Birbal, Baban, Vimla Devi and Narayan. As against the statement of said witnesses, the petitioner examined Birbal in his defence. The Enquiry Officer has appreciated the evidence to reach to the conclusion that Charge Nos.1, 2 & 3 has been proved.

6. The petitioner was served with the copy of the enquiry report along with show cause notice dated 31.03.1997, to which the petitioner replied vide Annexure-P-16 and thereafter the punishment was imposed.

7. Learned counsel for the petitioner would submit that the petitioner was not afforded proper opportunity of hearing, therefore, the order of punishment is in violation of principles of natural justice.

8. Having heard learned counsel for the petitioner and on perusal of the papers, it appears, the petitioner was earlier proceeded *ex parte* on 19.07.1993, which was set aside by the High Court. It further appears that the enquiry report was thereafter submitted on 24.02.1997, therefore, it is apparent that the enquiry report was not based on the *ex parte* proceedings, but it is an act subsequent to the fresh enquiry after the earlier *ex parte* order was set aside.

9. It is settled law that finding recorded by the Enquiry Officer, which has been approved by the Disciplinary Authority, is a finding of fact, which cannot be assailed in a writ petition as if the Court is hearing appeal against the finding of the Enquiry Officer. The finding can only be set aside when it is proved to be perverse having been arrived at without considering material evidence or by ignoring the evidence in favour of the delinquent. (See: **General Manager (Operations) State Bank of India and another vs R. Periyasamy, reported in (2015) 3 SCC 101, and State Bank of Bikaner and Jaipur vs Nemi Chand Nalwaya, reported in (2011) 4 SCC 584**).

10. I have seen the copy of the enquiry report and the nature of charges levelled against the petitioner. Considering the nature of charges which involve defalcation, forgery and cheating, the petitioner has been treated leniently by imposing punishment of stoppage of 6 increments with cumulative effect. It is also to be seen that at the time of filing of writ petition, the petitioner was 45 years of age in 1999. Thus, he has already superannuated.

11. There is no scope for further interference with the quantum of punishment.

12. Consequently, the writ petition being sans substance, it deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Nirala