

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.7535 of 2007**

Umeshwar Dubey son of Shri Vishwanath Dubey, aged about 51 years, R/o Mayapur, Sadar Thona Road, Ambikapur (CG)

---- Petitioner

Versus

1. Surguja Khetriya Gramin Bank (A Joint Undertaking of Government of India, State of Chhattisgarh and Central Bank of India), Through the General Manager, Head Office, Kumar Complex, Mahamaya Chowk Ambikapur (CG)
2. The Board of Directors, Surguja Khetriya Gramin Bank, through the Chairman, Head Office, Kumar Complex Mahamaya Chowk, Ambikapur (CG)
3. The Chairman cum Disciplinary Authority Surguja Khetriya Gramin Bank, Through the Chairman Head Office, Kumar Complex, Mahamaya Chowk, Ambikapur (CG)

---- Respondents

For Petitioner	:	Mr.Rakesh Pandey, Advocate
For Respondents	:	Mr.N.Naha Roy, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

9/1/2018

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India against the order dated 26.10.2007 passed by respondent No.2 by which respondent No.2 has dismissed the appeal preferred by the petitioner against his dismissal from service.
2. Learned counsel for the petitioner would submit that against the order passed by the disciplinary authority dismissing the petitioner from service, he preferred an appeal before the appellate authority i.e. Board of Directors, but the Board of Directors has not considered the appeal in its proper perspective and dismissed the same holding that appeal has

no merit. Therefore, order of dismissal from service and order of the appellate authority dismissing his appeal deserve to be set aside.

3. On the other hand, learned counsel for the respondents would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
5. It appears that the petitioner has raised several grounds that he was not given proper opportunity of hearing as he was detained in jail, departmental enquiry has been conducted in violation of principles of natural justice and even his representation against proposed punishment was not considered properly. On 4.4.2005, a representation was made by the petitioner. However, on that day only, the order of dismissal was passed by the disciplinary authority. Factual dispute with regard to violation of principles of natural justice has been disputed by the petitioner before the appellate authority that has also not been considered and order has been passed. Even charges were issued under the provisions of the Surguja Khetriya Service Regulations, 1980, whereas the order has been passed by the appellate authority applying the provisions of Surguja Khetriya Gramin Bank (Officers and Employees) Regulations, 2000 and as such, the appellate authority has considered the grounds raised by the

petitioner very casually. The petitioner has raised several grounds that he was not given proper opportunity of hearing as he was detained in jail, departmental enquiry has been conducted in violation of principles of natural justice, applicability of the Regulations and non-application of mind by the disciplinary authority in considering the representation against proposed punishment and also with regard to quantum of punishment. Those grounds have not been considered by the appellate authority. Therefore, the order passed by the appellate authority suffers from illegality. All the grounds raised by the petitioner have not been considered by the appellate authority in its proper perspective and the reasons assigned are very cryptic. It does not confirm to the requirement of law.

6. In the matter of **Ravi Yashwant Bhoir Vs. Collector**¹ the Supreme Court while highlighting the rationale behind requirement of recording reasons in order held that right to reasons is an indispensable part of sound judicial system and observed as under:-

“The expanding horizon of the principles of natural justice provides for requirement to record reasons as it is now regarded as one of the principles of natural justice. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind of the authority

1 (2012) 4 SCC 407

before the court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out the reasons for the order made, in other words, a speaking out. The inscrutable face of the sphinx is ordinarily incongruous with a judicial or quasi-judicial performance."

- 7.** In the light of principle of law laid-down by the Supreme Court in the above-stated judgment (supra), if the facts of the present case are examined, it would appear that the petitioner has raised serious grounds with regard to violation of principles of natural justice in conducting disciplinary proceedings, applicability of the Regulations and non-application of mind by the disciplinary authority in considering the representation against proposed punishment and also with regard to quantum of punishment, but it appears that the appellate authority has not considered the aforesaid grounds and reasons recorded are either no reasons or insufficient reasons, which should be recorded by the appellate authority particularly when the question of law and fact has also to be considered by it.
- 8.** For the foregoing reasons, the impugned order dated 26.10.2007 (Annexure P/1) passed by respondent No.2 is hereby set aside. The matter is remitted to the appellate authority now constituted under the Chhattisgarh Rajya Gramin Bank (Officers & Employees) Regulations, 2013 to hear and decide all the grounds raised by the petitioner in appeal strictly in accordance with law and to pass a reasoned

and speaking order within ⁵ three months from the date of receipt/production of a copy of this order.

9. The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-