

HIGH COURT OF CHHATTISGARH, BILASPUR
WP No.321 of 2006

M.K. Lohiya S/o Radhakishan Lohiya, Aged about 56 years,
 Officer Central Bank of India, Now dismissed, R/o. 140 Adarsh
 Nagar, Raipur (CG)

---- Petitioner

Versus

- 1.** Central Bank of India, A Banking Company Registered & Constituted under Banking Companies (Acquisition and Transfer of Undertaking Act 1970), Through the Managing Director, Chander Mukhi, Nariman Point, Mumbai
- 2.** The Zonal Manager, Central Bank of India, New Bombay Market, G.E. Road, Raipur (CG)
- 3.** The Regional Manager, Central Bank of India, Regional Office Chaubey Colony, Raipur (CG)
- 4.** C.K. Pandey, S/o. Not Known, Presently working as Regional Manager, Central Bank of India, Chaubey Colony, Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Kishore Bhaduri, Advocate
For Respondents No.1 to 3	:	Mr.S.S.Baghel, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/02/2018

- 1.** The petitioner was inflicted with penalty of termination from his service by order dated 7.7.2005. Against which, he preferred an appeal under Regulation 17 (ii) of the Central Bank of India Officer Employees' (Conduct) Regulations, 1976 (hereinafter called as 'the Regulations 1976'). Appeal has been dismissed simply holding that the appeal has no merit.
- 2.** Learned counsel for the petitioner would submit that no reason has been assigned and non-speaking and unreasoned order has been passed contrary to Regulation 17(ii) of the Regulations 1976, which is unsustainable and bad in law.
- 3.** On the other hand, learned counsel for respondents No.1 to 3 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. 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 and 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.”

6. A careful perusal of the aforesaid provision would show that the appellate authority is obliged to consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders.

7. Their Lordships of the Supreme Court in the matter of **Divnl.Forest Officer, Kothagudem & Ors. v. Madhusudhan Rao**¹ have dealt with a matter relating to disciplinary proceedings and held that in departmental appeal/revision against order of punishment, appellate/revisional authorities ought to indicate some reason even while conforming an order passed by the lower forum and observed as under: -

“18. Having considered the submissions made on behalf of the respective parties and also having regard to the detailed manner in which the Andhra Pradesh Administrative Tribunal had dealt with the matter, including the explanation given

regarding the disbursement of the money received by the respondent, we see no reason to differ with the view taken by the Administrative Tribunal and endorsed by the High Court. No doubt, the Divisional Forest Officer dealt with the matter in detail, but it was also the duty of the appellate authority to give at least some reasons for rejecting the appeal preferred by the respondent. A similar duty was cast on the revisional authority being the highest authority in the Department of Forests in the State. Unfortunately, even the revisional authority has merely indicated that the decision of the Divisional Forest Officer had been examined by the Conservator of Forests, Khammam wherein the charge of misappropriation was clearly proved. He too did not consider the defence case as made out by the respondent herein and simply endorsed the punishment of dismissal though reducing it to removal from service.

19. It is no doubt also true that an appellate or revisional authority is not required to give detailed reasons for agreeing and confirming an order passed by the lower forum but, in our view, in the interests of justice, the delinquent officer is entitled to know at least the mind of the appellate or revisional authority in dismissing his appeal and/or revision. It is true that no detailed reasons are required to be given, but some brief reasons should be indicated even in an order affirming the views of the lower forum."

8. The principle of law laid down by the Supreme Court in **Madhusudhan Rao** (supra) has been reiterated in **Narinder Mohan Arya v. United India Insurance Co. Ltd. And others**².

9. From perusal of the impugned order, it appears that the appellate authority has not applied the mandate of the Regulations 1976 and did not comply with the provisions contained in Regulation 17(ii) of the Regulations 1976 and passed the order, which is in teeth of the provisions contained in Regulation 17(ii) of the Regulations 1976.

² (2006) 4 SCC 713

10. In view of above, the impugned order is set aside. The matter is remitted to the appellate authority to consider and decide the appeal in the manner provided in Regulation 17(ii) of the Regulations 1976 within three months from today after hearing the petitioner by reasoned and speaking order.

11. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-