

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.14934 OF 2010

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the proceedings issued by respondents 2 and 3 dated 31.7.2008 & 9.4.2009, as arbitrary and illegal.

Heard Sri Ravi Kondaveeti, learned counsel appearing for the petitioner, Smt Bobba Vijaya Lakshmi, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that initially, he was appointed as Clerk in the respondent-Eluru Co-operative Urban Bank Limited. After rendering considerable length of service, and after obtaining series of promotions, he was further promoted as Chief Executive Officer in the year 1996. While discharging his duties as such, the respondent-Bank issued a charge memo on 14.7.2007 alleging certain irregularities, for which, the petitioner has submitted his explanation on 16.07.2007. Being dissatisfied with the same, the disciplinary authority appointed an Enquiry Officer. The Enquiry Officer, after conducting detailed enquiry, submitted his report stating that the charges levelled against the petitioner were proved.

Based on the said report, the disciplinary authority imposed the punishment of dismissal from service *vide* order dated 31.07.2008. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority i.e., Managing Committee. The appellate authority *vide* order dated 9.4.2009 dismissed the said appeal. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the disciplinary authority is the Chairman of Staff Committee and while deciding the appeal, the very same person, who has presided over the Managing Committee had decided the appeal. Therefore, the order passed by the appellate authority is contrary to the regulations and also contrary to the principles of natural justice. Learned counsel further submits that the enquiry officer has acted as Presiding Officer and principles of natural justice were not extended to the petitioner during the course of enquiry.

Learned Standing Counsel appearing for the respondents contends that the disciplinary authority has imposed the punishment of dismissal for the proven misconduct in the enquiry and no irregularity has been committed by the

disciplinary authority and the appellate authority has examined the case of the petitioner and rejected the appeal on 9.4.2009. Therefore, no prejudice is caused to the petitioner. There are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the authority, who had inflicted the punishment of dismissal, cannot decide the appeal preferred by the petitioner. Hence, ends of justice would be met if the order passed by the appellate authority is set aside and the matter is remanded to the appellate authority for fresh consideration.

Accordingly, the Writ Petition is allowed and the impugned order dated 9.4.2009 passed by the appellate authority is set aside and the matter is remanded to the appellate authority for consideration fresh. The petitioner is at liberty to raise all his submissions before the appellate authority. The appellate authority, which is presided over by the person other than the disciplinary authority, who had imposed the punishment of dismissal, is directed to re-consider the appeal afresh and pass appropriate orders within a period of four

weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner.

No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

27th September, 2018

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