

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.18817 of 2011

ORDER:

This writ petition is filed seeking a writ of mandamus to declare the action of the respondent in passing the order dated 22.07.2010 as arbitrary and illegal and to set aside said order and also the order of the Disciplinary Authority dated 20.07.2004. A consequential direction is sought to the respondent to pay arrears of salary to the petitioner from the date of reversion with all consequential benefits.

Heard Sri V.V.Prabhakara Rao, learned counsel for the petitioner and Dr.K.Lakshmi Narasimha, learned Standing Counsel for the respondent-bank.

It has been contended by the petitioner that while he was working as a Branch Manager with the respondent-bank during 12.06.2000 to 24.04.2002, he was served with a charge sheet on 08.11.2003 alleging that he had committed certain irregularities during the said period. In all, seven articles of charges were framed and the petitioner has submitted his explanation thereto. Not being satisfied with the said explanation, the Disciplinary Authority had appointed an Enquiry Officer to enquire into the charges. The Enquiry Officer, after conducting a detailed enquiry, had submitted a report holding that the charges levelled against the petitioner are proved. Based upon the said enquiry report, the Disciplinary Authority, by his order dated 20.07.2004, imposed a major penalty of reversion to a lower grade i.e from MMGS-II to JMGS-I and directed that the entire period of suspension be treated as not on duty. Challenging the same, the petitioner preferred an appeal before the Appellate Authority. Thereafter, he has filed W.P.No.10507 of 2010 before this Court contending that no orders have been passed in the

said appeal and this Court was pleased to dispose of the said writ petition on 23.06.2010 directing the Appellate Authority to dispose of the said appeal. Pursuant thereto, the Appellate Authority had rejected the appeal preferred by the petitioner vide impugned proceedings dated 22.07.2010.

Learned counsel for the petitioner contends that the Disciplinary Authority i.e Deputy General Manager had passed the punishment order vide proceedings dated 20.07.2004 and the very same authority has decided the appeal preferred by the petitioner and rejected the same vide proceedings dated 22.07.2010. Learned counsel further contends that the same authority cannot act as a Disciplinary Authority as well as the Appellate Authority and only on this short ground, the impugned orders are liable to be set aside.

Learned Standing Counsel appearing for the respondent-bank fairly concedes that the same authority, who earlier passed the punishment order, cannot decide the appeal preferred by the petitioner and, accordingly, submits that the matter be remanded to the Appellate Authority by setting aside the appellate order dated 22.07.2010.

This Court, having considered the rival submissions made by the parties, is of the view that the same authority i.e Deputy General Manager, who earlier passed the punishment order, had rejected the appeal preferred by the petitioner which is not permissible in law. Accordingly, the order passed by the Appellate Authority dated 22.07.2010 is set aside. The matter is remanded to the Appellate Authority for fresh consideration on merits, after giving an opportunity of personal hearing to the petitioner, if necessary, and to pass appropriate orders within eight weeks from the date of receipt of a copy of this order.

With these observations, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

01st November, 2018
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Date: 01.11.2018

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