

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 198 of 2014**

1. Chhattisgarh Gramin Bank, through Its Chairman, Head Office Choubey Colony, Recreation Road, Raipur (CG)
2. Chhattisgarh Gramin Bank Chairman, through Managing Director, Disciplinary Authority, Head Office Choubey Colony, Recreation Road, Raipur (CG)

---- Appellants**Versus**

1. Mohd.Umar Khan, S/o Shri Abdul Rajjak, Aged About 31 Years, District Dhamtari (CG)
2. Krishak Sewa Sahakari Samiti Through Its Prabandh Sanchalak, Faguram, Tahsil Sakti, District : Janjgir-Champa (CG)

---- Respondents

For Appellants : Shri B.D. Guru, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order on Board**Per Ajay Kumar Tripathi, CJ****10/01/2019**

1. Heard learned counsel for the appellants in the appeal where the decision of the learned Single Judge dated 3.1.2014 has been assailed.
2. Learned Single Judge has set aside the order of punishment imposed upon the private respondent by virtue of which the pay-scale of the private respondent was reduced by four stages as a measure of punishment imposed by the Disciplinary Authority.
3. Private respondent was supposed to be working as Managing Director (प्रबंध संचालक) in Krishak Sewa Shahkari Samiti, Faguram. It is stated that during that period a sum of Rs.6126.18 paise & Rs.545.70 paise was embezzled

by the private respondent and accordingly the charge sheet dated 10.5.1997 came to be served upon him. The only charge seems to be what has been reproduced by the learned Single Judge in Para-2 of the impugned order which related to embezzlement of Rs.6126.18 paise & Rs.545.70 paise on 13.2.1987 and 12.7.1988 respectively. It seems from the charge itself that on the intervention of the Head Office, the aforesaid amount also stood deposited.

4. A departmental enquiry was held. Evidences were recorded but the Enquiry Officer did not hold the private respondent guilty of the charge of misappropriation or embezzlement. However, a finding was recorded that the private respondent did not report to the superior authorities about the act of embezzlement done by some of the employees whose names figured in the said report.
5. After issuance of a show-cause, the Disciplinary Authority vide order dated 15.7.1995 imposed punishment of reduction in pay-scale by four stages and even the appeal preferred by the private respondent stood dismissed on 19.4.1996.
6. It was urged before the learned Single Judge that the charge of embezzlement or misappropriation was not made out against the private respondent in the report of the Enquiry Officer. Failure to inform the superiors was not one of the charges and merely because the Enquiry Officer made certain observations in this regard, the same could not form basis for imposition of punishment by the Disciplinary Authority. In fact, if the Enquiry Officer had found the delinquent not guilty in the domestic enquiry then only way the disciplinary authority could have imposed punishment upon him was by giving him a notice of disagreement which too has to be based on the evidence and material which had come during

the course of enquiry which might have been missed out by the Enquiry Officer in reaching the conclusion of not guilty. That did not seem to be the case. These are therefore serious omissions and despite the same if an order of punishment lowering the pay-scale by four stages was passed, it has serious civil consequences for the private respondent and therefore the order of punishment including dismissal of appeal affirming the punishment was rightly interfered with by the learned Single Judge.

7. Learned counsel for the bank submits that punishment order was passed by the competent authority keeping in mind the responsibility and the duty of the delinquent cast upon him by virtue of position he was holding. However, we have difficulty in accepting such a proposition.
8. Two things are of significance, firstly that the employee was exonerated by the Enquiry Officer after taking evidence and charge levelled was not found to be established. Secondly, we do not get any clarity whether the notice issued to the employee was a notice of disagreement or only a show-cause with the object of imposition of punishment.
9. From the records it appears that the order of punishment came to be passed on the ground of failure to inform the superior authorities of so-called embezzlement or misappropriation by some employees rather than being involved in a case of embezzlement himself. Since that was not the charge, the order of punishment was rightly vitiated and it was rightly interfered with by the learned Single Judge.
10. In view of above, the appeal has no substance, the same is liable to be and is hereby dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

roshan/-