

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 34 of 2019**

1. State Bank of India Corporate Centre State Bank Bhawan Cama Road, Nariman Point, Mumbai, Through The Regional Manager, Regional Office, Nehru Chowk, Bilaspur Chhattisgarh.
2. Chief General Manager Local Head Office, Bhopal Circle, Hoshangabad Road, Bhopal (Madhya Pradesh).
3. Deputy General Manager, Zonal Office, Byron Bazar, Raipur Chhattisgarh.
4. Assistant General Manager Regional Business Office No. 6, Nehru Chowk, Vikas Bhawan, Bilaspur Chhattisgarh.

---- Appellants**Versus**

Subir Kumar Lodh S/o Shri Makhan Ch. Lodh Aged About 45 Years Presently Posted As Agricultural Assistant, State Bank Of Indore (Now State Bank Of India) Sirgitti Branch, Bilaspur, R/o Tikrapara, Bilaspur Chhattisgarh.

---- Respondent

For Appellants	:	Shri Prafull N. Bharat, Advocate.
For Respondent	:	Shri Amrito Das, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**06/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. I.A. No.01 has been filed to condone delay of 36 days in preferring the appeal. For the reasons indicated in the application, the same is allowed. Delay is condoned.
2. Writ application of the private Respondent challenging the two orders of punishment inflicted upon him after the so-called departmental enquiry was

assailed. The punishments in question were withholding of two increments with cumulative effect as well as the punishment of withholding of his agricultural allowances paid to him. The writ application was allowed and the two orders of punishment came to be quashed and therefore, the appeal by the State Bank of India against the impugned order dated 11.09.2018 passed by the learned Single Judge.

3. The fact behind the litigation is that the two set of charges were brought against the private Respondent in relation to his omission and commission while he was posted at Gogawa Branch in the District of Khandwa, State of Madhya Pradesh. Complaints were made against the employee that for sanction of agricultural loan to the villagers, he was demanding bribe of Rs.450-500/- from each of the applicants who had applied for loan and that he has used a forged letter purportedly issued under the signature of the then Branch Manager to show that he was authorised to make evaluation of the applications for grant of such loan.

4. The learned Single Judge, after having heard the parties, took note of the fact that not a single witness was brought during the course of enquiry who was granted agricultural loan from the Branch and gave any evidence of such demand of bribe. The whole edifice of the complaint was built on the allegation made by one Shri Onkar Yadav who was supposed to be a Congress President of the Block in question. He too in his evidence did not name any of the beneficiaries who had made such allegation but he stated that he was informed of such allegation of demand of bribe by certain Congress workers.

5. The learned Single Judge therefore did not find any evidence to link or establish the charge on the private Respondent of demanding bribe. In absence of the same, it was held that the order of punishment of withholding of two increments was irrational, erroneous and unjustifiable.

6. So far as the second allegation is concerned, the private Respondent categorically filed an application before the enquiry officer to summon the then Branch Manager, one Shri A.K. Parsai who was supposed to be the author of the letter authorising him to conduct the evaluation. For some strange reason, the enquiry officer rejected such a plea and further no evidence as such was brought on behalf of the Bank to establish the allegation of forgery having been committed by the employee showing authorisation in his favour.

7. That being so, the learned Single Judge again held that the charges were not established or could not be established in absence of such cogent evidence and therefore, the punishment could not have been imposed on that charge also.

8. Learned counsel representing the Appellants submits that the writ application was not maintainable for lack of territorial jurisdiction as all the actions were taken against the employee while he was working at Khandwa in the State of Madhya Pradesh. The learned Single Judge committed an error by entertaining the writ application.

9. The departmental proceeding could have been initiated while the employee was posted at Khandwa but the fact is not denied that the order of punishment was served upon the employee while he was posted at Bilaspur and therefore, part of the cause of action did arise when the punishment order was communicated to him and received by him while he was posted in one of the Branches at Bilaspur. This objection therefore was rightly rejected by the learned Single Judge.

10. Another objection raised on behalf of the Bank before the learned Single Judge was that the two punishment orders could not be assailed in one writ application.

11. The learned Single Judge had this to say in paragraph-16 of the said contention:-

“16. The said contention of the petitioner also may not have much force as on date for the reason that the writ petition is of the year 2003 and going into this contention whether two separate writ petitions were maintainable or not after a period of 15 years from the date of filing of petition would be too hyper technical an issue to be decided. Moreover, the said contention also would not have strength for the reason that the petitioner had preferred two separate appeals before the appellate authority against two punishment orders, but the appellate authority has clubbed both the appeals and have decided the appeals by a common order dated 06.01.2003 (Annexure P/1) and on this ground also the objection stands unsustainable.”

12. Other objection taken before the learned Single Judge against the maintainability of the writ application was that since the employee was a workman, therefore, he will be covered under the Industrial Disputes Act.

13. Such objection was rightly repelled by the learned Single Judge in the interest of justice since the writ application was filed in the year 2003, admitted and then finally decided in the year 2018. After 15 years, the employee could not be expected to go and litigate afresh on the issue when prima facie the Court was satisfied that the orders of punishment was passed in violation of settled principles of law.

14. We do not feel that the learned Single Judge has committed any error by taking the view that there was no evidence to establish the charges brought against the employee and therefore, they were required to be set aside.

15. The Court is further informed that the employee in question has superannuated now and therefore, it is more a litigation for litigation sake rather than trying to find a cause having serious implications for the Bank.

16. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE