

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.341 of 2015

ORDER

This writ petition is filed seeking the following relief:

“...to pass an order or orders more particularly one in the nature of Certiorari or any other appropriate writ or direction calling for relevant records and quash/set aside the order of the 3rd respondent passed vide Proc. No.GR VII-5687-2012-13, dated 03-01-2013 and the order of the 2nd respondent passed vide Proc.No. GR-VII/2013-14, dated 06-05-2013 as illegal, arbitrary and in violation of the principle of natural justice and also in violation of Articles 14, 16, 21 and 311 of the Constitution of India and in consequence thereof the respondent may be directed to reinstate the petitioner into the service of the bank with all consequential benefits, further the Hon'ble Court may be pleased to pass such other order or orders as deemed fit and proper in the circumstance of the case.”

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for respondents 1 to 3.

It is the case of the petitioner that he was working as Manager in the respondent-Bank. While so, the respondents have initiated disciplinary action against him and issued a charge sheet on the ground that he has committed certain irregularities. In pursuance thereof, the petitioner has

submitted his explanation. Being not satisfied with the said explanation, the disciplinary authority appointed an enquiry officer to enquire into the charges levelled against the petitioner. After conducting enquiry, the enquiry officer has submitted his report stating that the charges levelled against the petitioner are held to be proved. Thereafter, the disciplinary authority had issued a notice on 02.07.2012 proposing to impose the punishment of removal from service which shall not be disqualification for future employment. Though it was stated in the said proceedings that copy of the enquiry report was enclosed, no such report was enclosed and the petitioner was asked to submit a representation against the proposed punishment within 10 days. Pursuant to the same, the petitioner has submitted a detailed representation. Thereafter, the disciplinary authority had imposed the major punishment of removal from service against the petitioner *vide* proceedings dated 03.01.2013. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the disciplinary authority has not passed any speaking

order and no reasons were assigned in the impugned removal order except reiterating the earlier facts; that the disciplinary authority has straight away imposed the punishment of removal from service; that challenging the said removal order, the petitioner has preferred an appeal before the appellate authority; that the appellate authority without appreciating the contentions raised by the petitioner, had mechanically rejected the appeal *vide* order dated 06.05.2013; that since the impugned order dated 03.01.2013, which is a non-speaking order, was passed without application of mind, the disciplinary authority ought to have assigned reasons for coming to the conclusion of imposing the punishment of removal from service and on this count alone, the impugned order is liable to be set aside. In support of his contention, learned counsel placed reliance on judgment of erstwhile High Court of Andhra Pradesh reported in *SBQ Steels Limited, Chennai v. Commissioner of Customs, Central Excise and Service Tax, Guntur*¹, wherein it was held as under:

“It is settled principle of law that a quasi judicial authority, while acting in exercise of its statutory power

¹ 2013(1) ALT 3 (DB)

must act fairly and must act with an open mind while initiating the show cause proceeding. A show cause notice is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice. At the stage of show cause notice, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. At that stage, the authority issuing the charge sheet/show cause notice, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in the present case, the entire proceeding initiated by the show cause notice gets vitiated by unfairness and bias and the subsequent proceedings become an idle ceremony.”

Learned Standing Counsel appearing for the respondents contends that every opportunity was given to the petitioner in the disciplinary proceedings; that since the enquiry officer held that the charges levelled against the petitioner were proved, the disciplinary authority had imposed the punishment of removal from service against him; and that 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 view that no reasons were assigned by the disciplinary authority for coming to the conclusion of imposing the major punishment of removal from service against the petitioner. The

disciplinary authority also not examined the proportionality of the punishment before imposing the major punishment of removal.

For the foregoing reasons, the impugned order is set aside and the Writ Petition is allowed. The matter is remanded to the disciplinary authority for consideration afresh after affording an opportunity to the petitioner. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th June, 2019
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