

4
Court
No. 11 18.11.2021
G.S.Da
s

MAT 114 of 2021
With
CAN 1 of 2021
CAN 2 of 2021

Bangiya Gramin Vikash Bank & Ors.

-Vs-

Ms. Raisuddin
(Via Video Conference)

Mr. Kamallesh Bhattacharya
Mr. Aninda Bhattacharya

... for the Appellants

Mr. Debabrata Saha Roy
Mr. K. P. Mukhopadhyay
Mr. Neil Basu

... for the Respondent.

Party/Parties is/are represented in the order of their
name/names as printed above in the cause title.

The appellants are the Employment-Bank.

The sole respondent in the appeal was the writ
petitioner and the subject-matter in this appeal relates to
the Disciplinary Proceeding (*DP*) instituted by the Bank
against the respondent/the writ petitioner.

The *DP* culminated in an order of removal from
service which shall not be a disqualification for future
employment.

Challenging the order of removal, the
respondent/the writ petitioner arrived before the Hon'ble
Single Bench.

The Hon'ble Single Bench, *inter alia*, held that there
are as many as 43 charges levelled against the
respondent/the writ petitioner. Out of the 43 charges the
Enquiry Officer (*EO*) found only one charge (Charge No. 38)

to be completely proved and five charges (Charge No. 1, 4, 9, 14 and 41) *to be partially proved*.

Therefore, out of the total of 43 charges, 35 charges were not proved at all.

This Court during the course of hearing Mr. Bhattacharya, Learned Counsel for the Bank/the appellants and Mr. Saha Roy, Learned Counsel for the sole respondent, had the occasion to peruse the Report of the *E.O.*

The findings of the *E.O.* set forth in arithmetical fashion carrying the same tenor *qua* each of the charges/the allegation nos. 1 to 43. The findings of the *E.O.* are identical and relate to the conduct of transactions by the respondent on behalf of the Bank.

In arriving at its findings, the *E.O.* has referred to perusal of the Management Exhibits (*M.Es.*), depositions of the witnesses and the summary arguments placed by the Presenting Officer (*P.O.*) *qua* each of the 43 charges.

The Hon'ble Single Bench came to the conclusion that the findings of the *E.O.*, while arriving at its conclusion, are without application of mind.

From the record, it further transpires that the Disciplinary Authority (*DA*) dealt with the report of the *E.O.* and, differing with such report, held each of the charges/allegations to be proved and hence imposed the punishment of removal from service *which shall not be a disqualification from future employment*.

The Hon'ble Single Bench came to the conclusion and, in the opinion of this Court correctly so, that in the event there is a difference of views between the *E.O.* and

the D.A., the delinquent employee ought to have been given an opportunity of presenting his side of the case afresh or, in other, words an opportunity of hearing.

Having regard to the entire conspectus of facts as narrated above, this Court finds little justification in the conclusion of the D.A. in holding the charges to be proved as well as the recommendation of the E.O. that only one charge out of 43 charges stood fully proved and five stood partially proved on the ground that the contents of each of the findings of the E.O. reflect the same standard of culpability, negligence, misconduct etc. if at all, on behalf of the respondent.

To the mind of this Court such an-across-the-board uniform findings on 43 charges on the part of the E.O. and the differing opinion of the DA, do not speak of a reasoned application of mind.

In this connection the attention of this Court is also drawn to the findings of the DA at internal page 4 which, *inter alia*, read as follows:

“The Charged Officer did not ensure end use of fund. It is not a single act; it is a course of action spreading over a sufficiently long period and involving a large number of transactions. Such indiscipline cannot be condoned on the specious grounds that it was not actuated by ulterior motives or by extraneous considerations.”

Therefore, this Court notices from the observations of the DA itself that the charges cover the entire spectrum of transactions. To cherry pick six out of 43 charges by the EO and the blanket conclusion of guilt arrived at by the DA

to impose the blanket punishment of removal from service is, in the opinion of this Court, an action in perversity.

In the backdrop of the above discussion, this Court does not intend to detain this appeal any further.

MAT 114 of 2021 along with **CAN 1 of 2021** and **CAN 2 of 2021** stand thus **dismissed**.

In view of the above discussion, affidavits are neither necessary nor invited and, the allegations made are deemed to be denied and disputed.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)