

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No.1042 of 2009**

Ramesh Kumar Tiwari, S/o. Kranti Kumar Tiwari, aged about 43 years, R/o Lane No.R/7, Gayatri Mandir Road, State Bank Colony, Vinoba Nagar, Bilaspur (CG)

----- **Petitioner**

**Versus**

1. Central Bank of India, Through-Executive Director, Chandramukhi, Nariman Point Mumbai, (Maharashtra)
2. Regional Manager, Central Bank of India, Regional Office 601 Napeir Town, Jabalpur (M.P.)
3. Deputy General Manager, Disciplinary Authority, Central Bank of India, Zonal Office, 1<sup>st</sup> Floor, Block-C, Bombay Market, G.E. Road, Raipur (CG)

----- **Respondents**

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| For Petitioner        | : | Mr.Vinod Deshmukh and Mr.Ritesh Giri, Advocates |
| For Respondents/State | : | Mr.B.D.Guru and Mr.Anuroop Panda, Advocates     |

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**Hon'ble Shri Justice Sanjay K. Agrawal**  
**Order on Board**

28.7.2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner was dismissed from bank service by respondent No.3/Disciplinary Authority with disqualification for future employment in terms of Regulation 4(j) of the Central Bank of India Officer Employees' (Discipline & Appeal) Regulations, 1976 (hereinafter called as 'Regulations 1976') by order dated 24.11.2006 (Annexure P-5). Questioning that order, the petitioner preferred appeal before the

appellate authority in accordance with Regulation 17 of the Regulations 1976. By order dated 18.6.2007 (Annexure P-7) the petitioner's appeal has been dismissed by the appellate authority. The order of the disciplinary authority as well as the order of the appellate authority have been called in question by the petitioner in this writ petition.

3. Return has been filed by the respondents justifying the action taken by the disciplinary authority and further justifying the order of the appellate authority in dismissing the appeal and prayer has been made for dismissal of writ petition.

4. Mr. Vinod Deshmukh, learned counsel for the petitioner, would submit that the appellate authority did not consider the appeal properly in terms of Regulation 17 of the Regulations 1976 and no finding has been recorded holding that the findings of the disciplinary authority are justified and the penalty is adequate and simply certifying the action of the disciplinary authority, the appeal has been dismissed in most mechanical manner, whereas the petitioner has raised 10 grounds in support of his appeal, but none of the grounds have been considered by the appellate authority and appeal has been dismissed affirming the order of the disciplinary authority without

application of mind, therefore, the order of the disciplinary authority as well as the order of the appellate authority deserve to be set aside.

5. On the other hand, Mr. Anuroop Panda, learned counsel for the respondents, would support the impugned order and submit that looking to gross misconduct involving huge financial implication, the petitioner was rightly dismissed from service under Regulation 4(j) of the Regulations 1976, which has rightly been affirmed by the appellate authority.

6. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

7. The petitioner has preferred an appeal before the appellate authority against the order of dismissal from service, which has been considered and dismissed by the appellate authority on 18.6.2007 upholding the order of the disciplinary authority.

8. At this stage, it would be appropriate to notice Regulation 17 of the Regulations 1976 which provides for manner of hearing and disposing of appeal, which states as under:-

**"17. APPEALS:**

i. An officer employee may appeal against an

order imposing upon him any of the penalties specified in Regulation 4 or against the order of suspension referred to in Regulation 12. The appeal shall lie to the Appellate Authority.

ii. An appeal shall be preferred within 45 days from the date of receipt of the order appealed against. The appeal shall be addressed to the Appellate Authority and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the Appellate Authority. The Appellate Authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders. The Appellate Authority may pass an order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that -

i. If the enhanced penalty which the Appellate Authority proposed to impose is a major penalty specified in Clauses (f), (g), (h), (i) and (j) of Regulation 4 and an enquiry as provided in Regulation 6 has not already been held in the case, the Appellate Authority shall direct that such an enquiry be held in accordance with the provision of regulation 6 and thereafter consider the record of the enquiry and pass such orders as it may deem proper.

ii. If the Appellate Authority decides to enhance the punishment but an enquiry has already been held as provided in Regulation 6, the Appellate Authority shall give a show cause notice to the officer employee as to why the enhanced penalty should not be imposed upon him and shall pass final order after taking into account the representation, if any, submitted by the officer employee."

9.A careful perusal of the aforesaid Regulation would

show that the appellate authority is required to consider the case of the petitioner and record a finding that the findings arrived at by the disciplinary authority are justified or whether the penalty is adequate or not and thereafter to pass appellate order clearly showing his application of mind.

10. It is well settled position of law that the appellate authority in disciplinary proceeding acts in quasi-judicial capacity and order passed has to be reasoned one and showing application of mind to the question raised by the appellant and if it is not done, the appellate order is vitiated. (See **Divisional Forest Officer, Kothagudem and others v. Madhusudhan Rao**<sup>1</sup>).

11. The Supreme Court reiterated this principle of law by observing that an appellate authority by deciding statutory appeal is not only required to give hearing to the Government servant, but pass a reasoned order dealing with the contention raised in the appeal. (See **Deokinandan Sharma v. Union of India and others**<sup>2</sup>).

12. Even if the appellate order is in agreement with that of the disciplinary authority, it may not be

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1 (2008) 3 SCC 469

2 (2001) 5 SCC 340

speaking order, but the authority passing the same must show that there had been proper application of mind in compliance with the requirement of law while exercising his jurisdiction particularly when the rules required application of mind on several factors and several contentions had been raised and he was bound to assign reasons so as to enable the Court reviewing its decision to ascertain as to whether he had applied his mind to the relevant factors which the rule required to do. (See Narinder Mohan Arya v. United India Insurance Co. Ltd. and others<sup>3</sup>).

13. A careful perusal of appellate order would show that the appellate authority firstly incorporated 10 grounds raised by the petitioner in his appeal memo and thereafter recorded the findings of the disciplinary authority which states as under:-

"On examination of each of the charges, I find that the Inquiring Authority and Disciplinary Authority had very carefully examined each of the charges and have arrived at a rightful and logical conclusion in holding the appellant guilty of each of the charges on the strength of the material evidences.

- It is observed from the records placed before me that the appellant grossly failed to verify the particulars furnished therein, failed to carry out inspection of sites/flats, failed to take efforts to verify the applicants' antecedents and past records of the borrowers and builders.
- He sanctioned loans without even getting proper address of the borrower, some of whom

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3 (2006) 4 SCC 713

are non-traceable.

- He failed to assess the viability of the project.
- He had disbursed the loan outrightly without carrying out the physical verification as to the progress made in the construction activities, instead of releasing the loan amount stagewise. It is brought out that the appellant went to the extent of releasing loans for flats to be constructed on the second floor even before the first floor was constructed.
- The proceedings reveal that the appellant was interested to release the loan instalments at a quicker pace without proper verification of profile of the borrowers and their repaying capacity and indulged in lending spree without adhering to the procedures and norms thereby benefited the builders and un-deserving borrowers.

The various submissions made by the appellant in his appeal do not have sufficient force/strength to justify appellant's action. He has, as custodian of the Branch, has grossly erred in discharge of duties and adherence to the norms and procedures, resulting in a substantial financial loss of Rs. 142 lacs. His gross omission have been fully proved on the strength of material evidence, in the departmental inquiry, hence his appeal does not merit any consideration for a review.

In view of the foregoing, I do not see any reason to show any leniency on the appellant either to set aside or even to modify the punishment. I therefore confirm the order of "Dismissal from Bank service" awarded by the Disciplinary Authority vide his orders 24.11.2006, which, according to me is quite appropriate and would meet the ends of justice. The appeal is thus disposed of.

Sd/-  
(BIRENDRA SINGH)  
APPELLATE AUTHORITY/  
GENERAL MANAGER

14. The aforesaid order would show that the appellate

authority has only recorded the findings recorded by the disciplinary authority and in two paragraphs, certified that the disciplinary authority has rightly dismissed the petitioner from service. In fact, the appellate authority has failed to perform his duty entrusted by Regulation 17 of the Regulations 1976 to consider that the findings are justified in view of oral and documentary evidence available on record and further failed to consider that the penalty is adequate or inadequate or it is appropriate or not or it requires interference except recording a finding that the petitioner was a responsible officer and could have seen that there is no financial loss to the Bank to the extent of Rs, 142 lacs, as such, the appellate authority has failed to consider the appeal in accordance with Regulation 17 of the Regulations 1976 and further failed to record that the findings of the disciplinary authority are justified and further failed to record the adequacy or inadequacy of the findings recorded by the disciplinary authority.

15. Accordingly, the impugned order dated 18.6.2007 (Annexure P-7) is hereby set aside. The matter is remitted to the appellate authority to consider the appeal preferred by the petitioner afresh in accordance with Regulation 17 of the Regulations 1976

within two months from the date of receipt of a copy of this order after hearing the petitioner. The petitioner is at liberty to file written submission in support of his appeal within one month from today.

- 16.** The writ petition is partly allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)  
Judge

B/-