

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.979 of 2014**

- Narsingh Singh, S/o Late Shri T. B. Singh, Aged About 53 Years, Branch Manager, Scale-II Officer, Chhattisgarh Rajya Gramin Bank, Gidam Branch, Distt. Dantewada, South Bastar, Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh Rajya Gramin Bank (A Joint Venture Of The Govt. Of India, State Govt. Of Chhattisgarh And State Bank Of India) Through Appellate Officer/chairman, Head Office-15, Recreation Road, Choube Colony, Raipur, Distt. Raipur, Chhattisgarh
2. Regional Manager, Chhattisgarh Rajya Gramin Bank, Regional Office Jagdalpur, Distt. Jagdalpur, Chhattisgarh
3. Administrative Officer/ General Manager, Chhattisgarh Rajya Gramin Bank, Head Office-15, Recreation Road, Choube Colony, Raipur, Distt. Raipur, Chhattisgarh

---- Respondents

For Petitioner
For Respondents

Mr. Sanjay Patel, Advocate
Mr. Anuroop Panda, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****22/09/2021**

1. The petitioner by way of this writ petition is challenging the legality, validity and the

correctness of the order dated 08.07.2013 (Annexure-P/5) passed by the respondent No.3, whereby the petitioner has been imposed penalty of Rs.1 Lakh due to irregularities and misrepresentation committed by the petitioner. The petitioner is further challenging the order dated 12.12.2013 (Annexure-P/7) passed by the respondent No.2, whereby the appeal preferred by the petitioner against the order of the Disciplinary Authority dated 08.07.2013 (Annexure-P/5) has been dismissed slightly modifying/reducing the punishment of penalty from Rs.1,00,000/- to Rs.80,000/-.

2. Mr. Sanjay Patel, learned counsel for the petitioner, would submit that the petitioner was imposed with the punishment of penalty to the tune of Rs.1 Lakh by the Disciplinary Authority vide order (Annexure-P/5), against which the petitioner preferred an appeal before the Appellate Authority, but the Appellate Authority vide its order (Annexure-P/7) though reduced the amount of punishment of penalty from Rs.1,00,000/- to Rs.80,000/- but dismissed the appeal summarily without

considering the facts and grounds raised by the petitioner in the memo of appeal and no finding has been recorded and the Appellate Authority has adjudicated nothing except affirming the order of the Disciplinary Authority, as such the appellate order is wholly unsustainable and bad in law and deserves to be set aside and the Appellate Authority be directed to consider and decide the appeal of the petitioner afresh in accordance with law.

3. Mr. Anuroop Panda, learned counsel for the respondents, would support the impugned orders.
4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
5. Regulations 49, 50 & 51 of the Chhattisgarh Gramin Bank (Officers and Employees) Service Regulation, 2010, which govern disposal of appeal preferred by the appellant, state as under:-

"49. Right to Appeal (1) an officer or employee may prefer an appeal against any order passed under these regulations to the Appellate Authority mentioned in regulation 50 within a period of 45 days from the date of receipt of such order.

(2) The Appellate Authority shall decide the appeal and pass order preferably within a period of 6 months from the date of receipt of the appeal.

50. Appellate authority – An appeal shall lie before

(i) the Board, where the Chairman is the Competent Authority, and

(ii) the Chairman, where any other officer is the Competent Authority.

51. Requirement of an appeal – Every appeal shall comply with the following requirements; namely

(i) it shall be in writing and couched in polite and respectful language and shall be free from unnecessary paddling or superfluous verbiage;

(ii) it shall contain all material statements and arguments relied on and shall be complete in itself,

(iii) it shall specify the relief desired,

(iv) it shall not be addressed to director personally."

6. A careful perusal of the aforesaid Regulations would show that the Regulations do not provide the manner of consideration of the appeal, but

since the Appellate Authority exercised quasi-judicial power of hearing and disposing of the appeal, the Appellate Authority ought to have assigned the valid reasons for rejecting the appeal and could have passed the speaking order while dismissing the appeal meeting with the grounds raised by the petitioner.

7. 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**¹).

8. 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**

1 (2008) 3 SCC 469

others²).

9. Even if the appellate order is in agreement with that of the Disciplinary Authority, it may not be 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 it had applied its mind to the relevant factors which the rule required to do. (See **Narinder Mohan Arya v. United India Insurance Co. Ltd. and others**³).

10. Reverting to the facts of the case in light of the aforesaid legal position, it is quite vivid that the petitioner was imposed with the penalty of Rs.1 Lakh, which is a minor penalty, but in the appeal, the Appellate Authority vide order (Annexure-P/7) has simply held that no new facts have been found which

2 (2001) 5 SCC 340

3 (2006) 4 SCC 713

are sufficiently good enough to totally alter the decision of the Disciplinary Authority and slightly reduced the punishment of penalty from Rs.1,00,000 to Rs.80,000/- and the contentions of the petitioner have not been considered and adjudicated. The Appellate Authority did not assign any reason as to whether the procedure laid down has been followed or not and whether it is in violation of principle of natural justice or not and provisions of the Constitution have been followed or not and whether the finding of the Disciplinary Authority is supported by the facts or not and whether the punishment is adequate or harsh and it requires interference, but no such finding has been recorded except the confirmation of punishment slightly modifying/reducing the punishment, which is not the proper way of deciding the appeal while exercising quasi-judicial power of hearing the appeal under the rules. Accordingly, the appellate order dated 12.12.2013 (Annexure-P/7) is hereby set-aside and the matter is remitted to the Appellate Authority to consider and decide the appeal of

the petitioner afresh in accordance with law by a reasoned and speaking order within a period of 3 months from the date of receipt of copy of this order.

11. The writ petition is allowed to the extent indicated herein-above. No order as to cost (s).

Sd/-

Sanjay K. Agrawal
Judge

Nirala