

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.4605 of 2011**

- Dinesh Prasad Gupta, S/o Late Bholanath Gupta, Aged About 48 Years, Occupation Service, Presently Working as Clerk-cum-Cashier, Surguja, Kshetriya Gramin Bank, Govindpur Branch, District Ambikapur, Chhattisgarh

----- Petitioner**Versus**

1. Chhattisgarh Rajya Gramin Bank, through its Chairman, 15 Recreation Road, Choubey Colony, Police Station Amapara, Raipur, Civil and Revenue District, Raipur, Chhattisgarh
2. The Board of Directors, Chhattisgarh Rajya Gramin Bank, 1st Floor, Vivek Complex Sangam Gal, Police Station Ambikapur, Civil and Revenue District Sarguja (C.G.)

----- Respondents

For Petitioner	Ms. Sharmila Singhai, Senior Advocate with Mr. Lokesh Kumar Singh, Advocate
For Respondents	Mr. N. Naha Roy, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****24/09/2021**

1. The petitioner by way of this writ petition is challenging the legality, validity and the correctness of the order dated 08.04.2011

(Annexure-P/11) passed by the respondent No.2, whereby the petitioner's appeal has been dismissed affirming the order dated 13.11.2010 (Annexure-P/7) passed by the respondent No.1, by which the petitioner was imposed with the major punishment of reversion from the post of Officer Grade-I to the post of Clerk-cum-Cashier (Office Assistant).

2. Ms. Sharmila Singhai, learned Senior counsel for the petitioner, would submit that the petitioner was imposed with the major punishment of reversion from the post of Officer Grade-I to the post of Clerk-cum-Cashier (Office Assistant) vide order (Annexure-P/7) passed by the Disciplinary Authority, against which the petitioner preferred an appeal before the Appellate Authority, but the Appellate Authority vide its order (Annexure-P/11) dismissed the appeal only in four lines 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, which is not the correct way of deciding the appeal, as such the appellate order and the order of the Disciplinary Authority as well deserve to be set aside and the matter be remitted to the Appellate Authority to consider and decide the appeal of the petitioner afresh in accordance with law.

3. Mr. N. Naha Roy, 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 47, 48 & 49 of the Surguja Kshetriya Gramin Bank (Officers and Employees) Service Regulations, 2000, which govern disposal of appeal preferred by the appellant, state as under:-

"47. **Right to Appeal** (i) an officer or employee shall have right of appeal against any order passed under these Regulations which injuriously affects his interest.

(ii) The appeal shall be preferred to the Appellate Authority mentioned in regulations 48 within 45 days of the date of receipt of these order appealed against. The Appellate Authority shall consider the appeal and pass suitable order preferably within a period of 6 months.

48. **Appellate Authority** – An appeal shall lie before

(i) to the Board where the Chairman or Committee of Directors is the Competent Authority.

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

49. **Requirement of an appeal** – Every appeal shall comply with the following requirements:

(a) it shall be in writing and couched in polite and respectful language and shall be free from unnecessary padding or superfluous verbiage.

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

(c) it shall specify the relief desired.

(d) it shall not be addressed to directors 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 punishment of reversion from the post of Officer Grade-I to the post of Clerk-cum-Cashier (Office Assistant) by the Disciplinary Authority vide order (Annexure-P/7), which is

² (2001) 5 SCC 340

³ (2006) 4 SCC 713

a major punishment, but in the appeal, the Appellate Authority vide order (Annexure-P/11) has simply dismissed the appeal of the petitioner in four lines affirming the order of the Disciplinary Authority 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 and even the submission and contention of the petitioner that no proper departmental enquiry was conducted while imposing with the major punishment has also not been taken note of, which is not the proper way of deciding the appeal while exercising quasi-judicial power of hearing the appeal under the rules. The

Board of Directors being the highest authority of the Bank has to be fair to its employees and officers while dealing with the appeal, but the Board of Directors has completely failed to perform its duty while deciding the appeal. Accordingly, the appellate order dated 08.04.2011 (Annexure-P/11) 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 60 days from the date of receipt of copy of this order.

11. The writ petition is allowed to the extent indicated herein-above. The petitioner is entitled to the cost of Rs.5,000/- from the respondent Bank.

Sd/-

Sanjay K. Agrawal
Judge