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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 348 of 2014

Sri Bamadev Das

....

Appellant

-versus-

***Chairman-cum-Disciplinary Authority,
Dhenkanal Gramya Bank, Dhenkanal
and another***

Respondents

Advocates appeared in the cases:

For Appellant

:

**Mr. Asok Mohanty
Senior Advocate**

For Respondent s

:

Mr. S.C. Samantaray, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

JUDGMENT

27.09.2022

Dr. S. Muralidhar, C.J.

1. This writ appeal is directed against the judgment dated 22nd August 2014, passed by the learned Single Judge, dismissing the W.P.(C) No.2612 of 2002 filed by the present Appellant, challenging the order of the Board of Directors-cum-Appellate Authority (AA), Dhenkanal Gramya Bank, affirming the finding of the Enquiry Officer (EO) that the charges against the Appellant in the Disciplinary Enquiry stood proved and awarding the punishment of reinstatement in service with cut in the increment,

fitting him in the initial stage of pay scale and treating the suspension period as not on duty.

2. This Court has heard the submissions of Mr. Asok Mohanty, learned Senior Counsel appearing for the Appellant and Mr. S.C. Samantaray, learned counsel appearing for the Respondent- Bank.

3. The background facts are that the Appellant was appointed in 1982 as a Scale-1 Officer in the Dhenkanal Gramya Bank (Bank), (at present the Odisha Gramya Bank after amalgamation). The charge against the Appellant framed against him on 29th October, 1998 was that while serving as Manager at Indipur Branch, he had deliberately accepted pledge of spurious gold ornaments and granted loan to an non-existent person and further that he had given a loan of Rs.10,000/- to one Sri Nirakar Prusty, the son of the Jewel Appraiser and compelled him to give recovery of Rs.5,000/- from the proceeds of the loan to the jewel loan in the name of one Sri Rama Sahoo. The Appellant had written off Rs.4,184/- causing a financial loss to the Bank.

4. There was another charge, viz. the Appellant accepting pledge of spurious gold ornaments and granting another loan in five accounts. On this score, the loss to the Bank was determined as Rs.1,157/-.

5. On 29th October, 1998, an EO was appointed and both the Appellant as well as the Presenting Officer (PO) submitted their

respective list of witnesses and documents on 30th December, 1998.

6. On 16th January 1999, the Appellant had requested the EO to take assistance of one Sri B.K. Mohanty, a retired Gazetted Officer of Central Government as Defence Assistant. However, the Appellant's request was turned down, since Mr. Mohanty was neither a Bank employee nor representing a Trade Union to which the Appellant belonged.

7. Thereupon, the Appellant made an alternative prayer granting him seven days to bring another Defence Assistant. The attempt by the Appellant to make a representation on 27th January, 1999 to the Chairman of the Bank praying for change in the EO was also rejected. The Appellant was placed under suspension on 1st February, 1999. According to the Appellant, the enquiry was completed on 16th February, 1999 without giving him an opportunity of examining his witnesses. The Appellant then produced himself as witness.

8. The EO submitted a report on 15th April, 1999 basing on which the DA-Respondent No.1 held the Appellant guilty of the charges and by an order dated 20th May, 1999, awarded him the punishment of removal from service.

9. A further appeal to the AA was partly successful since by an order dated 28th August 1999, it was held that the procedure

adopted by the EO was valid and further that the charges stood proved against the Appellant. The modified punishment awarded by the AA was reinstatement with cut in increment fitting the Appellant in the initial stage of the pay scale, treating him as being suspended only and debarring him from the 1st line assignment for five years.

10. Mr. Asok Mohanty, learned Senior Counsel for the Appellant took the exception to the denial by the EO of a Defence Assistant to the Appellant. However, the narration of the facts by Mr. Mohanty itself reveals that the Appellant accepted the modified punishment. The Appellant is stated to have acknowledged the reduced punishment by stating in writing, as under:

"22..... I am really fortunate that considering my appeal dated 18.6.1999, the punishment awarded by the Disciplinary Authority has been modified to the following extent:- संयमिक न्यायो

- (a) Reinstatement with cut in increment fitted in the initial stage of pay scale presently drawn.
- (b) Period beginning from the date of suspension till the date of reinstatement shall be treated as period not spent on duty and no other allowance up or amount to be paid by the Bank, other than subsistence allowance already paid.
- (c) Debarred from first line assignment for a period of 5 years from the date of reinstatement and there will be review after completion of 5 years regarding suitability for giving first line assignment and the decision to be taken by the Chairman as deemed fit."

11. The learned Single Judge noted that the Appellant had already accepted his modified punishment and therefore could not challenge it. It was further held that the principles of natural justice had been fully complied with in conformity with the provisions of the Regulation 30 of the 1982 Regulations. Consequently, the learned Single Judge declined to interfere with the matter.

12. Mr. Mohanty, termed the denial by the EO of a Defence Assistant to the Appellant as vitiating the enquiry. While it is true that the EO did not permit Sri B.K. Mohanty to be the DA, liberty was granted to the Appellant to find out another DA and the case was adjourned on that basis. The Appellant could have easily come up with the name of another Defence Assistant within the time of granting for that purpose. He failed to do so. The Court is satisfied that there was sufficient opportunity available to the Appellant to make alternative arrangement for a Defence Assistant and there is no illegality committed by the Opposite Party-Bank in this regard. Even on the provision of documents, the record of proceedings seems to indicate that the Appellant had access to all the relevant documents during the enquiry. This Court is not satisfied that there is any violation of principles of natural justice in the above process.

13. Having carefully perused the impugned order of the learned Single Judge in light of the materials placed on record and having

considered the submissions advanced at the Bar, the Court is satisfied that the learned Single Judge has not committed any error in concluding that the writ petition was without merit and in dismissing it as such.

14. The Court accordingly dismisses the present writ appeal but, in the circumstances with no order as to costs.

S. Behera/ Jr. Steno.



(S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge