

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No.634 of 2010

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of order dated 06.07.2010 passed in W.P.No.5575 of 2005.

The undisputed facts of the case reveal that the respondent – employee was serving with Reserve Bank of India and while in service, she was subjected to disciplinary proceedings and a charge sheet was issued on 04.05.2004 for stealing the currency (Rs.100/- x 6 pieces = Rs.600/-) during the examination of notes tendered by the State Bank of Hyderabad. The employee was subjected to frisking and the notes were recovered from her. She came with an excuse that it is her personal money and she took it to the note examination section on 02.04.2004. The employee also took a stand that the shortage of Rs.600/- in the note examination section is only a co-incidence and the money found on her body belongs to her. The disciplinary authority, not being satisfied with the reply, initiated an enquiry in terms of Regulation 47-3 of the Reserve Bank of India Staff Regulations, 1940 and a report was

submitted in the matter holding the employee guilty of the misconduct. Copy of enquiry report was also submitted to her and thereafter the disciplinary authority has inflicted punishment of dismissal from service. Being aggrieved by the order dated 26.08.2004, dismissing her from service, an appeal was preferred and the appeal was also dismissed on 07.03.2005. The employee came up before this Court stating that she has put in 20 years of service and the punishment of dismissal from service is shockingly disproportionate to the misconduct and therefore, the punishment be set aside. The learned Single Judge interfered with the quantum of punishment even though he has held that no procedural irregularity has taken place in departmental enquiry and there is no violation of principles of natural justice and fair play and there is nothing wrong in the domestic enquiry. He has interfered only in respect of quantum of punishment keeping in view the 20 years of service put in by the employee.

Learned counsel for the Reserve Bank of India has argued before this Court and his contention is that the employee was serving with Reserve Bank of India, she was daily handling cash as she was working in cash chest and whether the money involved is six lakhs or six hundred, it does not make any

difference and in case of a banker, the punishment in such case has to be termination of service or removal/dismissal from service. He has placed reliance on the judgments delivered by the Hon'ble Supreme Court in the case of **State Bank of India and others vs. Ramesh Dinkar Punde¹** and **Divisional Controller, KSRTC (NWKRTC) vs. A.T. Mane²**.

On the other hand, learned counsel for the employee has argued before this Court that the punishment is certainly disproportionate to the guilt of the employee and therefore, the learned Single Judge was justified in interfering with the quantum of punishment. He has also stated that the respondent-employee is 60 years of age and no purpose is going to be served by interfering with the order passed by the learned Single Judge.

This Court has carefully gone through the entire record and in the present case, the issue was in respect of a banker, who was in-charge of the examination section where there was a regular cash flow and examination of notes used to take place. The respondent – employee was caught red handed in keeping Rs.600/- inside her clothes and her misconduct came to light only when she was subjected to frisking. There was a deficit of

¹ (2006) 7 SCC 212

² (2005) 3 SCC 254

Rs.600/- in the cash chest and the same was recovered from the respondent-employee. The video clip also established that the employee in question has kept the cash inside her clothes and in those circumstances, as it was an open and shut case, the punishment of dismissal was inflicted. In **State Bank of India and others (supra)** the Hon'ble Supreme Court in paragraph 21 has held as under:

“21. Confronted with the facts and the position of law, learned counsel for the respondent submitted that leniency may be shown to the respondent having regard to long years of service rendered by the respondent to the Bank. We are unable to countenance such submission. As already said, the respondent being a bank officer holds a position of trust where honesty and integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently. The respondent was a Manager of the Bank and it needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer so that the confidence of the public/depositors is not impaired. It is for this reason that when a bank officer commits misconduct, as in the present case, for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently.”

In the light of the aforesaid judgment, as the employee in question was serving with Reserve Bank of India, the order passed by the learned Single Judge in interfering with the quantum of punishment deserves to be set aside and is accordingly, set aside.

Accordingly, the writ appeal is allowed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

07.03.2022
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