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27.06.2023  
D.Hira  
Court No. 12

**In The High Court At Calcutta  
Civil Appellate Jurisdiction  
Appellate Side**

**MAT 8 of 2016**

**The UCO Bank & Anr.  
-versus  
Nirbhoy Lodh & Ors.**

**Mr. D.K. Kundu,  
Mr. A. Basu.  
... for the appellants/  
UCO Bank**

**Mr. Ranjan Kali,  
Ms. Anindita Maity.  
... for the respondents**

The respondent no. 1 was working in the UCO Bank as Assistant Chief Officer in the Regional Office at Calcutta.

On August 31, 2006, a charge-sheet was issued, containing seven charges. The respondent no. 1 was also suspended from service with effect from November 7, 2006. The appellants conducted a domestic enquiry and the Assistant General Manager by the order dated May 10, 2007 dismissed the respondent no.1 from service.

The appeal and the revision filed by the respondent no. 1 against the order of dismissal were also dismissed by the General Manager and

the Executive Director, by the orders dated July 9, 2007 and May 9, 2008 respectively.

The respondent no. 1 filed a writ petition no. 14061 (W) of 2008 challenging the charge-sheet, enquiry report, the final order and the orders of Appellate Authority and the Reviewing Authority in the said writ petition.

Before the learned Judge, Mr. Ranjan Kali, learned counsel for the respondent no. 1 raised preliminary ground among other grounds that the respondent no. 1 was appointed by the Deputy General Manager while Assistant General Manager passed the order dated May 10, 2007 dismissing the respondent no. 1 from service which is in violation of Article 311 of the Constitution of India.

Learned counsel for the respondent no. 1 also raised a ground that Staff Management Committee recommended suspension of the respondent and the very same committee considered the appeal filed by the respondent no. 1 as the Appellate Authority.

On the other hand, counsel appearing for the appellants contended that as per Class 2 (a) of the Schedule in the circular dated April 4, 2002, the appellants have substituted the Disciplinary Authority, Appellate Authority as well as the Reviewing Authority. As per the circular the disciplinary authority for Grade/Scale-I, II, III Officers of the Bank, Assistant General Manager is

the disciplinary authority. In spite of such substitution, learned Judge allowed the writ petition accepting the preliminary ground raised by the respondent no. 1.

In the present appeal, learned counsel for the appellants submitted that the learned Judge has failed to take into consideration that the Regulations 3(g) of UCO Bank Officer Employees' (Discipline and Appeal), 1976. Disciplinary Authority means the authority specified in the Schedule which is competent to impose on an Officer/employee any of penalties specified in Regulation 4.

The Disciplinary Authority, Appellate Authority and the Reviewing Authority had acted in terms of the Schedule as mentioned in the Circular dated April 4, 2002 and the entire proceedings was conducted in accordance with law.

Learned counsel for the appellants further submitted that as per Regulations 3(g) of UCO Bank Officer Employees' (Discipline and Appeal), 1976, the Assistant General Manager is the Disciplinary Authority in respect of the misconduct committed by the respondent no. 1 and the order of dismissal dated May 10, 2007 passed by the Assistant Chief Manager as an Disciplinary Authority is valid and legal.

Learned counsel for the appellants further contended that Article 311 of the Constitution of India is not applicable to the case of the respondent no. 1. As respondent is not a civil servant.

Learned counsel appearing for the respondent no. 1 submitted that even though respondent no. 1 raised ground that dismissal of the respondent no. 1 is in violation of Article 311 of the Constitution of India, learned Judge allowed the writ petition only on the ground that Assistant General Manager is not the appointing authority and remanded the matter to the Disciplinary Authority to follow the procedure. The order passed by the learned Judge, is valid.

Learned counsel for the respondents also submitted that in the very same schedule mentioned in the circular dated April 4, 2002, the Disciplinary Authority is mentioned that Assistant General Manager/Deputy General Manager. The respondent no. 1 was appointed by the Deputy General Manager and hence the Deputy General Manager is the Disciplinary Authority.

Learned Judge considered the entire materials and rightly set aside the order passed by the Assistant General Manager and remanded the matter to the Disciplinary Authority to consider afresh. There is no error in the order passed by the learned Judge.

Heard Mr. Kundu, learned Counsel appearing for the appellants and Mr. Ranjan Kali, learned counsel appearing for the respondents and perused the entire materials on record.

From the above materials it is the contention of the learned counsel for the appellants that the respondent no. 1 was working under the jurisdiction of the Assistant General Manager and the Assistant General Manager is the Disciplinary Authority.

On the other hand, it is the case of the respondent no. 1 that respondent no. 1 was appointed by Deputy General Manager, he working under the jurisdiction as Deputy General Manager.

From the above, it is clear the respondent no. 1 was appointed by Deputy General Manager and was working under the jurisdiction of Deputy General Manager, In view of above, the contention of learned counsel for the appellants is not acceptable and contrary to well settled judicial pronouncements. It is well settled that appointing authority is the Disciplinary Authority and he only has power to pass the orders in respect of misconduct committed by the employee appointed by him. The appointing authority can delegate the power to conduct domestic enquiry to some other subordinate officer but on receipt of enquiry report, it is for the appointing authority to pass final

orders especially when the capital punishment of dismissal is imposed.

In the very same, circular dated April 4, 2002 in Clause 2 (a) of the Schedule, the Disciplinary Authority is mentioned as Assistant General Manager/Deputy General Manager. If Assistant General Manager is the Disciplinary Authority in respect of Grade-Scale-I/II/III and Officers, there is no necessity to mention the Deputy General Manager is also the Disciplinary Authority.

The only conclusion that can be drawn from this provision is that in case an appointment of officers by Assistant General Manager he will be the Disciplinary Authority and when an employee was appointed as Deputy General Manager, Deputy General Manager will be the Disciplinary Authority.

Learned Judge has considered this provision in proper perspective and allowed the writ petition holding that setting aside the order of dismissal will not prevent the Disciplinary Authority from revisiting the enquiry report in the matter of awarding punishment in accordance with law.

In view of the same, there is no error in the order passed by the learned Judge and need interference by this Court.

With the aforesaid observation, M.A.T. 8 of 2016 is dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Ms. V.M. Velumani, J.)**

**(Rai Chattopadhyay, J.)**