

15.04.2024
SI No.5
Court No.8
(gc)

**FMA 253 of 2024
CAN 1 of 2024**

**Bangiya Gramin Vikash Bank & Ors
Vs.
Chinmay Bhattacharya**

Mr. Baidurya Ghosal,
Ms. Aatreyee Dutta,
Mr. Saikat Mukherjee
...for the Appellants/Bank.

Mr. Debabrata Saha Roy,
Mr. Indranath Mitra,
Mr. Neil Basu,
Mr. Sankha Biswas
.....for the Respondent.

1. We have heard the learned Counsel for the parties.
2. In the representation to the appellate authority and Chairman for consideration of the punishment imposed by the disciplinary authority based on the finding of the enquiry officer, the writ petitioner has given an explanation for not following the Rule Book instantaneously and he tried to justify the sanctioning of the loan based on assessment of the working capital and the lending norms applicable to the borrowers in question. The delinquent has also in the representation said that as a Branch Manager he was also asked to

achieve the target. He has also stated that since he was retired and was not given adequate time he could not complete all the documentation for the loan but he denied the charge of any moral turpitude or breach of trust. Although the Court should be extremely circumspect and chary in interfering with the order of the appellate authority, it is the duty of the appellate authority to consider if there are mitigating circumstances that may be taken into consideration in considering the punishment.

3. We feel that the appellate authority in this case may revisit the issue of punishment taking into consideration that he has offered explanation for not being able to strictly follow the norms and in the event it is found no financial loss is caused to the bank, any other punishment short of dismissal may be considered by the appellate authority if the appellate authority decline to exonerate the appellant by taking into consideration his past performance and past record. In the representation before the appellate authority, we do not find that any allegation of violation of natural justice has

been raised and admittedly the writ petitioner had received all the documents during the enquiry proceeding.

4. On such consideration, we direct the appellate authority to consider his representation with regard to the findings of the disciplinary authority and imposition of punishment within a period of eight weeks from the date of communication of this order after giving a reasonable opportunity of hearing to the writ petitioner.
5. The writ petitioner shall be permitted to present all documents that may be necessary to show that the writ petitioner has acted prudently. Apparently, it does not appear that he acted with ill-motive or indulged in act of corruption. The record of the appellant bank would show his past conduct as well as the present conduct. It is, thus, not advisable to make any comment with regard to the nature of the allegation, we leave the matter to the discretion of the appellate authority who is expected to exercise its direction judiciously.

6. The appeal and the application are disposed of with the aforesaid direction and in modification of the impugned order.
7. However, there shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Uday Kumar, J.)