



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO. 4172 OF 2020

SURESH DAGDU GIRI

VERSUS

AHMEDNAGAR DISTRICT CENTRAL CO OPERATIVE BANK LTD THROUGH
MANAGING DIRECTOR

Mr. P. V. Barde, Advocate for the Petitioner

Mr. Vinayak Upadhye, Advocate for the Respondent

CORAM : R. M. JOSHI, J.

DATE : 9th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the judgment and award passed in Reference (IDA) No. 14/2013, dated 31/07/2018, whereby the reference is answered in negative.
3. The parties are referred to as 'Employee' and 'Employer' for the sake of convenience.
4. There is no dispute about the fact that the Employee was appointed with the Employer Bank on 03/05/1982. On 20/07/2001 he was issued to the charge-sheet with allegation of commission of act misappropriation of the funds. On the basis of the said charge-sheet, the departmental inquiry was conducted, wherein he was found guilty of

the charges of misappropriation. The Employee was terminated by order dated 08/03/2002. This termination came to be challenged by the Employee in Reference (IDA) No. 14/2013. Since the Reference Court rejected the contention of the Petitioner, present Petition.

5. Learned Counsel for the Petitioner submits that the Labour Court has committed error in not considering the grounds of challenged raised to the termination of the Employee in proper perspective. It is his contention that list of witnesses was not provided during the course of the inquiry which has caused prejudice to the defence of the Employee. He also argued that this is a case of non production of document and which vitiates the conduct of the inquiry. Finally it is argued that Branch Manager as well as the present Employee were issued common charge-sheet and in spite of the fact that the identical charges are levelled and proved against them, discrimination has been caused by the Bank in imposing punishment. It is his contention that the Branch Manager was imposed with the punishment of withholding of annual increment with warning, whereas the Employee came to be terminated. To support his submission he has placed reliance on the judgment of Division Bench of this Court in case of *P. M. Ratnakar Vs. UCO Bank, Mumbai and others, 2009(5) Mh.L.J., 587*.

6. Learned Counsel for the Respondent-Employer supported the impugned order.

7. It is pertinent to note that the Petitioner-Employee was issued with charge-sheet. He has participated in the inquiry. There is no grievance made by him that he was not given an opportunity of cross examining the witness of the Management during the course of the inquiry. There is nothing on record to indicate that any prejudice has been caused to the Employee for not giving the list of witnesses in advance. The learned Advocate for Employee was not in a position to point out provision of any rule applicable to the parties which mandates providing of such list of witnesses in advance. In case the Employee was not able to defend himself properly, it was open for him to make such grievance before the Inquiry Officer. No such grievance seems to have been made during enquiry. Unless prejudice is shown by the Petitioner for non supply of the list of witnesses in advance, it cannot become a ground for setting aside the proceeding of inquiry.

8. In so far as the the grievance about non production of document is concerned, the order passed by the Labour Court clearly indicates that there was admission given by the Employee with regard to receipt of all documents vide Exhibit C-5/24. These observations made in paragraph No.12 of the judgment are in consonance with the evidence on record is cannot be termed that perverse.

9. Finally coming to the issue of the discrimination caused by the Respondent Employer in effecting the punishment upon two

Employee against whom similar charges are levelled is concerned, it would be relevant to take note of the findings recorded by the Labour Court in paragraph No.21 which reads thus:

"21. In the case in hand, we can see that the role played by the Second Party who was Cashier and Branch Manager in the alleged act of misconduct is totally different. The Cashier is supposed to handle the case with utmost care and to make entries in the register maintained to that effect. Whereas, the Branch Manager is supposed to supervise the work of all the subordinated staff. In the case in hand, it is alleged that the Second Party, while acting as a Cashier, made false entries and thereby made false representation to the Branch Manager while dealing with day to day business, and thereby misappropriate the amount. Therefore, when the Second Party, while acting as a Cashier committed misappropriation by taking false entries in the register kept, the Branch Manager cannot be said to be equally responsible for his alleged acts. At the most, the Branch Manager can be said to be not that much vigilant or diligent while supervising on the subordinate staff. Therefore, the role played by both of them is totally different. Though, both of them were chargesheeted with a common charge sheet, however, the same is not in connection with the misconduct of the same nature. Therefore, with due respects, the observations in the cases relied upon by the Ld. Advocate Shri K. Y. Modgekar appearing on behalf of Second Party in this behalf, are not applicable to the case in hand."

10. The afore stated findings clearly indicate that though a common charge-sheet was issued, what was alleged against the Bank Branch Manager that he failed to supervise the work effectively. Per se, it cannot be said that he is involved in the misappropriation of the amount which has been alleged and proved against the Petitioner Employee and proved against him. Having regard to these facts it

cannot be said that any discrimination has been caused by the Respondent-Employer in punishing two sets of Employees.

11. If the nature of the misconduct is considered, there is a categorical finding recorded by the Inquiry Officer that the Petitioner-Employee has misappropriated an amount to the extent of Rs.1,41,000/-. He was working as Cashier, which position is of Trust. Thus this is case of breach of trust and misappropriation of public money. The order of dismissal of the Petitioner therefore cannot be termed as shockingly disproportionate to the gravity of the misconduct in order to cause interference therein.

12. In view of the above, there is no merit in the petition. Hence, Petition stands dismissed.

(R. M. JOSHI, J.)

ssp