IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.1737 of 2024
CNR No. ODHC010439232024

(From the judgment dated 26th April 2024 passed by learned Single Judge in W.P.(C) No. 12353 of 2016)

Bijaya Kumar Patel .... ***Appellant***

-versus-

Canara Bank, Bengaluru and others ... ***Respondents***

Advocate(s) appeared in this case:-

For Appellant : Mr. Agasti Kanungo, Advocate

For Respondents : Mr. R.B. Das, Advocate

CORAM:
HO'BLE MR. JUSTICE B. P. ROUTRAY
HO'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT
28th October, 2026

B.P. Routray, J.

1. Heard Mr. A. Kanungo, learned Counsel for the Appellant and Mr. R.B. Das, learned Counsel for the Respondents.

2. Present Appeal is directed against the judgment of the learned Single Judge dated 26th April 2024 passed in W.P.(C) No. 12353 of 2016.

3. The case of present appellant, who was the writ petitioner, is that he joined as a Probation Officer in Canara Bank on 05.02.1996 and subsequently promoted to the post of Middle Management Grade Scale-III. A disciplinary proceeding was initiated against him vide charge sheet dated 08.06.2015 on the charges that he, while working as Senior Manager at Canara Bank, Jagadalpur Branch, had misconducted in exercising his discretion for enhancement of the OCC (Open Cash Credit) limit to M/s. Behera Traders from 20 lakhs to 30 lakhs and permitted ad-hoc Rs.6 lakhs on 25.04.2013 without any proper justification and in contravention of the prevalent guidelines. The Enquiry Officer was appointed and the inquiry report finding him guilty was submitted to the Disciplinary Authority.

4. The Disciplinary Authority vide order dated 30.09.2015 (Annexure-8) imposed the punishment of reduction to lower stage in time scale of pay by two stages for a period of two years with cumulative effect during which he shall not earn increments of pay and on expiry of said period, the reduction shall have effect of postponing future increments of his pay, as envisaged under Regulations 4(f) of the Canara Bank Officer Employees (Discipline and Appeal) Regulations, 1976 (hereinafter referred as "1976 Regulations"). The Petitioner then

preferred appeal against said punishment order, which was dismissed confirming the punishment. Against the same, Petitioner preferred W.P.(C) No. 12353 of 2016 and the judgment passed therein dismissing the writ petition is impugned in present appeal.

5. It is submitted on behalf of the Appellant that the fundamental Regulations depriving the appellant from examining his witness was violated as the statement of two persons namely, B.K. Jena and Amitav Sahoo, was relied on by the Enquiry officer to find the appellant guilty. But the appellant was not permitted to examine Amitav Sahoo or B.K. Jena as witnesses in his defence. According to the appellant, this part of his submission was not taken into consideration by the learned Single Judge while dismissing the writ petition.

6. On the other hand, it is submitted by Mr. Das, learned counsel for the Bank, that all the principles envisaged in 1976 Regulations have been followed while imposing the penalty against the appellant and all such allegations made by him regarding violation of the established principles are false and are not justified on record.

7. We perused the 1976 Regulations. These Regulations prescribe the procedure for imposing major penalties. Regulations 6(3) speaks that,

when it is proposed to hold an inquiry definite charges shall be framed on the basis of allegations made against the officer and shall be communicated in writing to the officer requiring him to submit a written statement thereof. A detailed procedure has been prescribed in Regulation 6. Regulation 6(13) prescribes that oral/documentary evidences, the witnesses, by which the charges are proposed to be proved, shall be produced on behalf of the Disciplinary Authority by the Presenting Officer. In the event of production of witness by the Presenting Officer, the delinquent officer shall be permitted to cross-examine the witness. Regulation 6(14) authorizes the Inquiring Authority to permit the Delinquent Officer to produce his evidence including the witness beyond the charge sheet. The delinquent Officer is also permitted to bring new evidence in his support under Regulations 6(14), in the interest of justice. Regulations 6(16) prescribes that the Delinquent officer can examine himself on his behalf and also can produce witnesses to be examined on his behalf.

8. On the backdrop of the prescribed Regulations applicable in proceeding against the Delinquent Officer, the same are not allegedly violated except to the extent that he was not permitted to examine one witness namely, Amitav Sahoo on his behalf. After the inquiry report

was submitted, a defence statement was called for from the appellant. We also perused said defence statement of the appellant at Annexure-7.

9. On perusal of said defence statement of the appellant, it reveals that the appellant has stated at Paragraph-4 that there was lapse on the part of the Prahallad Kar and M.K. Nath regarding grant of ad-hoc six lakhs rupees by Amitav Sahoo in consultation with the circle office. But the Delinquent Officer (Appellant) has never stated in his defence statement regarding his objection as to non-examination of said Amitav Sahoo by him. The appellant has also failed to produce any document on record to justify his contention that he has prayed before the Enquiry Officer in terms of Regulations 6(16) to examine said witness namely, Amitav Sahoo on his behalf in his defence. Therefore, such submission made at this stage is not found correct on record and cannot be considered in favour of the appellant.

10. In ***B. C. Chaturvedi vs. Union of India, (1995) 6 SCC 749***, it has been made clear that, in the matter of judicial review against the order of the Disciplinary Authority or Inquiry Officer, this Court cannot re-appreciate or re-appraise the evidence led in the disciplinary proceeding and the scope in that regard is very limited. The Hon'ble Supreme Court has observed as follows;-

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.

18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

11. In the case at hand, the appellant prays for re-appreciation of the evidence on the basis of his submission that he was prevented from

examining the witness namely, Amitav Sahoo, whose statement has been used against the appellant by the Enquiry Officer. But on perusal of the inquiry report under Annexure-6, we do not find anything on record that the statement of said Amitav Sahoo was relied on by the Enquiry Officer to find the appellant guilty for the charge. No such exhibit was found there in the inquiry report containing the statement of Amitav Sahoo as submitted by the Petitioner.

12. Upon thorough perusal of the entire record including 1976 Regulations, we do not find any procedural flaw in conducting the departmental proceeding and moreover, the appellant either before this Court or before learned Single Judge did not specifically allege violation of any procedural formality envisaged in 1976 Regulations. It is not the case of the appellant that he was deprived of the principles of natural justice or opportunity of being heard. It is also not the case of the appellant that he was not given opportunity to submit his reply to the inquiry report before the Disciplinary Authority. The appellant also does not question the quantum of punishment as disproportionate to the charge. However, we examined the proportionality of punishment in respect to the charge framed against the appellant. The appellant, who was working as a Senior Manager in a responsible post, has mis-

conducted himself to exceed his permitted limit of OCC and also granted *ad-hoc* Rs.6 lakhs in favour of a private party. This is certainly beyond the expected conduct of the appellant as a Senior Manager of the Bank and thus the punishment imposed on him by the Disciplinary Authority is not found disproportionate to the charges framed against him, hardly leaving any scope for interference by the Court on this score.

13. For the reasons stated and discussions made above, the Writ Appeal is dismissed being devoid of merit.

(B.P. Routray)
Judge

(Savitri Ratho)
Judge

Subhalaxmi/Madhusmita

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