Damodar Nanda Vs. G.M., Central Bank of India and ors.

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Court : Orissa

Decided On : Mar-22-2012

Appellant : Damodar Nanda

Respondent : G.M., Central Bank of India and ors.

Judgement :

B.P.DAS, J & B.K.NAYAK, J.W.P.(C) No.11465 OF 200.(Dt.22.03.2012) DAMODAR NANDA .Petitioner. .Vrs. G. M., CENTRAL BANK OF INDIA & ORS. Opp.Parties. For Petitioner - M/s. J.K.Rath, D.N.Rath, S.N.Rath & P.K. Rout. For Opp.Parties - Mr. Utpal Bose, Mr. B.Routray, Mr. B.M.Pattnaik, Mr. S.K.Sarangi, Mr. S.K.Mishra & Mr. R.Bhatacharya. B.P.DAS, J.The petitioner, who was working as a Scale-1 Officer under the Central Bank of India, has filed this writ petition challenging the order dated 19.11.2007 passed by the Assistant General Manager (Disciplinary Authority), Central Bank of India, O.P.2, dismissing him from service with disqualification for future employment in respect of the departmental enquiry initiated against him (Annexure-19). Initially the petitioner challenged certain irregularities in the disciplinary proceeding but during pendency of the writ petition, the disciplinary proceeding was concluded, for which the writ petition was amended and the petitioner challenged the impugned order dated 19.11.2007. It is worthwhile to mention here that during pendency of the writ petition, a contempt proceeding was initiated against the opposite parties for violation of this Courts order, which is also pending in this Court. Challenging the same, the O.P.-Bank moved the apex Court but the S.L.P. was dismissed.

2. Bereft of unnecessary details, the facts leading to the writ petition tend to reveal that the petitioner was initially served with an article of charge, which is re-produced here. Mr. Nanda has declared the following assets and liabilities as on 31.3.2004 and 31.3.2005 in the statement submitted in terms of Regulation 20(2) of Central Bank of India Officer Employee (Conduct) Regulations, 1976. Mr. Nanda has also declared his Assets and Liabilities in the loan application dated 27.7.2004. In the declaration of Assets & Liabilities as on 31.3.2004 and as on 31.3.2005 he has suppressed the other Savings. of Rs.10,00,000/- that he has declared in the Assets & Liabilities as on 25.7.2004 in the loan application dated 27.7.2004. He has overstated his Other Savings. in the loan application with an intention to influence the sanctioning authority to impress that the adequate margin is available for the loan. Mr. Nanda has further understated his liabilities in the Assets and Liabilities as on 25.7.2004 in the loan application dated 27.7.2004 with an intention to influence the sanctioning authority to impress that adequate repayment capacity is available. He has, thus failed to act with utmost integrity, honesty, devotion and diligence and acted in a manner prejudicial to the interest of the Bank. Sri Nanda is charged under Regulation 3.1 read with Regulation 24 of Central Bank of India Officer Employees (Conduct) Regulations 1976.

. It is an admitted fact that the petitioner, Sri Damodar Nanda was a co-loanee in respect of a house building loan obtained by his father where he was required to give certain declarations, such as (Details of Savings) a) LIC Policies, b) Fixed Deposits, c) National Saving Certificates, Indira Vikas Patras, Shares, etc., d) Gold and Silver Ornaments & e) Others. In clause-e the petitioner has shown as Rs.10.00 lakhs. According to the article of charges, in the statement of assets and liabilities declared by the petitioner as per the requirement of the Bank, he has not disclosed that his other savings is Rs.10.00 lakhs. The said form, inter alia, required to disclose in the statement of moveable properties, such as

1) Insurance (Life),

2) Stock & Shares,

3) Deposits/Cash,

4) Jewellery &

5) Goods. There is a discrepancy in the assets declared by him as per the bank norms and the savings declared in the application form for housing loan. A plea has been taken by the petitioner that in the application form of housing loan, a column is there for details of other savings but no such column is available in the statement of assets and liabilities that is required by the Bank. According to the Management, the total assets were shown in the statement of declaring assets and liabilities as Rs.7,90,172/-, whereas Rs.10.00 lakhs has been shown as other savings, for which the petitioner suppressed the said amount of Rs.10.00 lakhs on other savings, which he being a co-loanee has declared in the application form and not shown in the declaration form of assets and liabilities. A plea was taken that there was no provision in the form prescribed for the purpose of declaring assets and liabilities to the Bank. So there was no chance of disclosing the other savings, which the petitioner has disclosed at the time of taking loan being a coloanee.

3. On perusing the records produced before us, we make it very clear that the loan was sanctioned with due appraisal of the higher authorities and it is found that the father of the petitioner took the loan and the property, which was secured against the loan amount, was more than the value of the loan. That apart, during examination and crossexamination of the witnesses in the disciplinary proceeding, it is also indicated that the principal borrower, who has taken the loan, is having sound financial capacity to re-pay the same. In fact, the loan has been re-paid before due time and a clearance certificate has been issued to the loanee. But in course of enquiry, it was found that the petitioner was guilty of the charges, which were found to be proved against him and the proposed punishment was to the effect of reducing five stages in the time scale of pay for a period of three years and he would not earn any increment of pay during the period of such reduction and on expiry of period of three years, the reduction would have the effect of postponing the future increments of his pay as per Annexure-24. But the above decision of the disciplinary authority was sent for approval and vide Annexure-25, the Assistant General Manager (Vigilance), Central Bank of India, by his communication dated 28.9.2007 intimated the disciplinary authority that without

waiting for the response of Sri Nanda in the matter up to the given time, he has forwarded his proposed draft final order for approval. The said communication dated 28.9.2007 is extracted herein below :- We have received a copy of your above letter addressed to Shri Damodar Nanda, Asstt. Manager on date i.e. 28.9.2007 where by a copy of the findings of the Inquiring Authority, being agreed with the same was forwarded to him for his submission by 19.9.2007. Without waiting for the response of Shri Nanda in the matter up to the given time, you have forwarded your proposed draft final order vide your letter not RO:HRD:DAD:2007-08.40 dated 18.9.2007 for our approval. Please inform by return FAX whether you have received submission if any on the findings of the Inquiring Authority by No.?. If so, please send a copy of the same for our purpose. Please ensure and confirm compliance accordingly.

. Thereafter, the Assistant General (Vigilance) by his communication dated 22.10.2007 intimated the disciplinary authority the following. The relevant papers related to the above said departmental inquiry along with your proposed final order were placed before the Chief Vigilance Officer for perusal/approval and he has observed that in view of solo charge having been proved by the Inquiring Authority and yourself as well, the proposed penalty is not commensurate. In view of the foregoing and under instructions of the Chief Vigilance Officer, you are advised to review/re-examine your proposed final order and submit the revised proposed final order immediately.

. From the said communication dated 22.10.2007, it appears that the proposed penalty was not commensurate.

4. The disciplinary authority as per the advice of the Assistant General Manager (Vigilance) passed the proposed final order on 23.10.2007 with removal from service, which shall not be a disqualification for future employment. Thereafter, by the impugned order dated 19.11.2007 the disciplinary authority dismissed the petitioner from service with disqualification for future employment. This order is challenged on various grounds, inter alia, on the ground that in the charges, which were framed, absolutely there is no misconduct.

5. Let us see the provisions of Rule-20(2) of Central Bank of India Officer Employees (Conduct) Regulations, 1976, which speak as follows :20- Movable, Immovable and Valuable Property. (2)- Every officer employee shall, every year submit a return of his movable, immovable and valuable property including liquid assets like shares, debentures, as on 31st March of that year, to the bank before the 30th day of June of that year.

. A bare reading of the charges framed against the petitioner vis--vis the prescribed form under the aforesaid rule would certainly show that there is no provision under the aforesaid rule to disclose if there was any other savings on that date. That apart there was no dishonesty on the part of the petitioner. There is nothing to show that in any manner the loan has gone bad and the Bank has suffered any loss. The loan has been properly appraised and it has been repaid back before framing of the charges against the petitioner.

6. Without going into further details, in our considered opinion, the charges framed against the petitioner are due to misapplication of Rule-3(1) of the Regulations, 1976 and the allegation against him does not amount to any misconduct, as he has not in any manner acted prejudicial to the interest of the Bank or to Rule-24 of Regulations, 1976. Therefore, we set aside the order dated 19.11.2007 passed by the Assistant General Manager (Disciplinary Authority), Central Bank of India, O.P.2 so also the entire proceeding along with the charges. The opposite parties are to reinstate the petitioner in service forthwith with all the consequential service benefits including backwages, which shall be restricted to 40% of the total entitlement of the petitioner and the same shall be paid within a period of one month from the date of communication of this judgment. The writ petition is allowed accordingly. Writ petition allowed.