

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

M. Vittal Vs. Disciplinary Authority and Regional Manager, State Bank of Hyderabad and ors.

M. Vittal Vs. Disciplinary Authority and Regional Manager, State Bank of Hyderabad and ors.

SooperKanoon Citation : sooperkanoon.com/444839

Court : Andhra Pradesh

Decided On : Oct-01-2002

Reported in : 2002(6)ALD587; 2002(6)ALT499; (2003)ILLJ811AP

Judge : Ar. Lakshmanan, C.J. and ;V. Eswaraiah, J.

Acts : [Constitution of India](#) - Article 14

Appeal No. : WA No. 249 of 1990

Appellant : M. Vittal

Respondent : Disciplinary Authority and Regional Manager, State Bank of Hyderabad and ors.

Advocate for Def. : V. Jogaiah Sarma, Adv.

Advocate for Pet/Ap. : C.S.K.V. Ramana Murthy, Adv.

Disposition : Appeal dismissed

Judgement :

Ar. Lakshmanan, C.J.

1. Heard both sides and perused the impugned judgment passed by the learned single Judge and the entire records of the disciplinary authority.

2. Learned Counsel for the appellant contended that the learned single Judge ought to have held that the appellant was not provided with adequate opportunity to put forth his defence during the course of inquiry in view of the fact that on the last day of enquiry proceedings, immediately after the closure of oral evidence on behalf of the management, the Enquiry Officer, without directing the appellant to lead his evidence in defence, if any, only sought some clarifications from him and closed the proceedings. He would further urge that the learned Judge has failed to consider that refusal of permission to the appellant to lead evidence after conclusion of the presentation of case on behalf of the Management is by itself non-compliance of the procedure as contemplated under the provisions of the Bipartite Settlement existing between the parties which was binding both on the management as well as charged employee and that such non-compliance would amount to violation of principles of natural justice. He has further contended that the findings of the disciplinary authority are perverse and not supported by any evidence or reasoning because the appellant was not entrusted with the responsibility of passing cheques under question for payment. He is required to post the cheques for payment only after the signature on the cheque is tallied and there is sufficient balance in the account. Accordingly, he posted the entries in the ledger after the cheques in question were passed for payment. In conclusion, it is submitted that the appellant is not the person responsible for safe custody of branch records or security documents/instruments and, therefore, there is no justification in attributing everything to the appellant especially when the matter was referred to police for investigation and police did not implicate the appellant for any offence. Lastly, it is submitted that the punishment of dismissal is disproportionate to the charges levelled against the appellant even if it is held that the charges are proved.

3. In our opinion, none of the contentions raised by the appellant merit any consideration. The cheque book containing Form Nos. 829411 to 829420 was originally intended to be issued to Mr. Munawwar Ali Khan on the 29th of April, 1983 was not traceable and that is why he was issued with a fresh cheque book

and that this cheque series was subsequently entered in the ledger sheet of late Shri Sushil Dhawan by Shri Vittal, the appellant-petitioner herein on his own without being directed by any supervising official. Moreover, there is no entry in the Branch Cheque Book Issue Register to indicate that the cheque book (bearing) Nos. 829411 to 829420 was issued to Shri Sushil Dhawan. After having obtained possession of those cheques, by tampering with the Bank's relevant records, Shri Vittal drew the cheques himself, posted them in the ledger-account and entered details thereof in the Day-Book even though it was not a part of the work allotted to him. The five cheque Nos.829411 to 829414 and 829416 aggregating to Rs. 8,400/- were debited to the account of late Shri Dhawan on the 18th October, 1983. The appellant was informed of the death of Shri Sushil Dhawan by Shri K.S. Vijay Kumar on 13.10.1983. The contention of the appellant that the transactions relate to a period prior to the date of official intimation about the death of the account holder is not correct in view of the fact that he was aware of the death of Shri Dhawan as on 13.10.1983 even prior to the date of transaction. As regards the five cheques used in the fraud perpetrated by the appellant, the Specimen Signature Card and Account Opening Form relating to Late Shri Dhawan's Savings Bank Account No. 2026 were also missing from the Bank records. Hence the Management could not establish as to whether the signatures of the drawer on these five cheques were forged or not. However, the credit vouchers of Andhra Bank, Sanjeevareddynagar Branch through which these cheques were collected in clearing, were found to be written in the handwriting of the appellant. Thus the petitioner's intention of fraudulently withdrawing Rs. 8,400/- from the account of the deceased Shri Dhawan for his own benefit with an intention to defraud the Bank/ Customer having been clearly established, no mala fides can be attributed to the passing official.

4. This apart, in the instant case it is contended that no opportunity was given to the appellant at the time of enquiry. A perusal of the record would clearly reveal that a charge-sheet was served on the appellant and that an Enquiry Officer and a Presenting Officer were also appointed to enquire into the alleged misconduct committed by him. The List of Witnesses and the List of Documents on which the Presenting Officer relied upon in furtherance of the charges was handed over to the appellant. On 17.12.1985, copies of the documents were given to him and he

was allowed time up to 20th December, 1985 to peruse all documents and take down notes if he so desired. The enquiry was postponed to 27th December, 1985 wherein the appellant cross-examined the witnesses produced by the presenting officer on 1st February, 1986. Shri Subbi Reddy who was brought in as a management witness, refused to depose before the enquiry officer hence the presenting officer closed his case. It is pertinent to notice that the question of violation of principles of natural justice and denial of opportunity would have arisen only if the charged employee had made a request to examine the documents or witnesses in his defence and the same was declined by the enquiry officer. As the appellant-petitioner did not express any desire to peruse documents and examine witnesses in his defence, it cannot be held that the enquiry was vitiated. The appellant's contention that reasonable opportunity was not given to him to defend his case, in our opinion, therefore, is not tenable. From the various depositions of witnesses examined and documentary evidence produced during enquiry, it is proved beyond doubt that the appellant had wrongfully obtained possession of the cheque book, fraudulently drew five cheques in the Savings Bank Account of Shri Sushil Dhawan for an aggregate amount of Rs. 8,400/- and collected them through the Savings Bank Account of Shri D.Subbi Reddy maintained in Andhra Bank for his own benefit. This action of the appellant has resulted in the Bank losing its credibility and has adversely affected the reputation with its customers. In our opinion the charges against the appellant are very grave and taking into account the mala fide intentions of the appellant in fraudulently withdrawing Rs. 8,400/- from the account of the deceased Shri Dhawan with a view to defrauding the Bank/customer, the punishment of dismissal from service treating his period of suspension as such, in our considered opinion, is justified and is neither excessive nor disproportionate. In our opinion, the contention of the appellant's Counsel that lesser punishments were imposed in many cases where even gross misconduct of a more serious nature than the one found in the instant case was established and hence the action of the management is discriminatory and is hit by Article 14 of the [Constitution of India](#) is not correct and that the petitioner has not placed any material before us in support of the said contention at the time of arguing the case enabling us to take a different view. We are, therefore, not inclined to accept this contention.

5. For the aforesaid reasons, we are of the opinion that the order of learned single Judge dismissing the writ petition is perfectly in order. We, therefore, confirm the same and dismiss this appeal. However, there will be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com