Ram Pratap Sonkar Vs. Chairman and Managing Director, Allahabad and Others

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Court : Allahabad

Decided On : Feb-28-2000

Reported in : 2000(2)AWC1333; [2000(85)FLR264]; (2000)IILLJ382All; (2000)3UPLBEC1973

Judge : M. Katju and; D.R. Chaudhary, JJ.

Acts : Constitution of India - Article 226

Appeal No. : C.M.W.P. No. 21054 of 1998

Appellant : Ram Pratap Sonkar

Respondent : Chairman and Managing Director, Allahabad and Others

Advocate for Pet/Ap. : A.K. Srivastava and ;T.P. Singh, Advs.

Judgement :

M. Katju, J.

1. This writ petition has been filed against the Impugned dismissal order dated 30.12.1997 Annexure-10 to the writ petition and the order dated 28.3.1998 Annexure-12 to the writ petition.

2. We have heard learned counsel for the parties.

3. The petitioner was in the service of the Allahabad Bank and was an officer in junior management grade-1 and was posted as Assistant Manager. He was given a charge-sheet dated 29.7.1994 vide Annexure-2 to the writ petition and he was suspended by the order dated 21.1.1994 vide Annexure-3 to the writ petition. A perusal of the charge-sheet shows that serious allegations of financial irregularities were made against the petitioner. Thereafter, an enquiry was held in which he was given an opportunity of hearing and the enquiry officer submitted a report copy of which Is Annexure-8 to the writ petition. On the basis of the said report, the petitioner was dismissed and his appeal was also rejected.

4. Sri T. P. Singh learned counsel for the petitioner only addressed us on the quantum of punishment and submitted that the punishment was disproportionate to the offence. He relied on the decision of the Supreme Court in Kailash Nath Gupta v. Enquiry Officer. 1997 ACJ 896 and State Sank of India v. T. J. Paul. JT 1999 (3) SC 385. His submission was that It was merely a case of negligence and no deliberate misconduct was committed by the petitioner. We are not in agreement with this submission. No doubt had it been merely a case of a minor negligence, we could have reduced the punishment following the aforesaid decisions of the Supreme Court. A perusal of the enquiry report dated 25.10.1997 Annexure-8 to thepetition, however, shows that out of eight serious charges levelled against the petitioner, the charges on Articles I, II, IV and VIII have been found proved while three of the charges i.e., on Article III, V and VI was found partly proved. The only charge on Article VII was found not proved. The findings of the enquiry officer are not only that the petitioner was reckless but also his conduct in a large number of transactions was dubious. For instance, regarding Article VI of the charges which states that the petitioner in a most irregular, reckless and dubious manner allowed opening of three S. B. Accounts through CT 20-A purported to have been issued by Banda branch without ensuring/ verifying the genuineness of CT 20A and released payment against them, sometimes single handedly despite presence of the clerk-cum-cashler with ulterior motive without getting the withdrawal form countersigned by the special assistant posted at the Branch, making interpolation in the head office schedule in order to conceal facts,

facilitating perpetration of fraud thereby exposing the Bank funds to the tune of Rs. 2.46 lacs. The finding on this charge is that fraud in the aforesaid amounts aggregated Rs. 2.46 lacs which amount was Jeopardized due to recklessness and negligent acts of the petitioner.

5. Similarly the charge regarding Article II is that the petitioner during his tenure at the above Branch again acted in a dubious manner and failed to conduct proper pre-credit appraisal of loan applications received under IRDP. SCP and Swakshkar Vimukti Yojna so as to arrive at the need based financial requirement of the borrowers and he processed all such applications in a reckless and negligent manner thus Jeopardizing the financial interest of the Bank and no survey report or pre-credit appraisal note has been made in respect of the above advances, and this charge was also found to be proved.

6. The charge regarding Article I which has also been found to be proved is that the petitioner while posted at Kalinjar branch sanctionedand disbursed loans under various Government sponsored schemes e.g., IRDP, SCP and Swakshkar Vimukti Yojna in a most reckless and dubious manner and thus exposed the bank's fund to extreme Jeopardy as the amount involved in these accounts aggregating Rs. 5,86,390 became sticky/difficult of recovery.

7. The charge regarding Article VIII is to the effect that his savings were highly disproportionate to his own sources of Income, and this charge has also been found proved.

8. Thus, the findings of fact are not merely that the petitioner made a simple human error but he acted in most dubious and reckless manner regarding the bank's operations.

9. Hence in our opinion the decision In Kailash Nath Gupta v. Enquiry Officer (supra) has no application.

10. It must be understood that a bank operates on public confidence and hence greater strictness is required from Bank employee as compared to the employees of other organisations, otherwise the public will lose confidence In the bank.

11. In Disciplinary Authority v. N. B. Patnaik, 1996 (4) SCC 457. the Supreme Court held that where the Bank employee allowed overdrafts or passed cheques involving substantial amounts beyond his authority even if no loss has resulted to the Bank from such act and in some Instances it even yielded profit to the Bank, the employee can yet be held guilty of misconduct.

12. In Tara Chand Vyas v. Chairman and Disciplinary Authority. JT 1997 (3) SC 500. the facts were that the bank employee concerned derellcted in the performance of the duties in making payment of loans without ensuring supply of implements of the loanees and deposit of adequate security from the dealers as a consequence of which the respondent bank was put to loss. The Supreme Court held that the Court should not interfere in such a case, otherwise the banking business would be vitally affected.

13. In State Bank of India v. T. J. Paul, 1999 (4) SCC 759. the bank officer was charged for having sanctioned loan without adequate security and without prior approval/ratification from superior authorities which was contrary to the departmental Instructions. The Supreme Court held that even though no actual loss was found proved the disciplinary action against the employee was justified and the dismissal order was valid. The Supreme Court held that even though there may not be actual loss, even likelihood of loss was enough to hold the employee guilty. The Supreme Court in this case held that the High Court was not correct in holding that the finding of the enquiry officer or disciplinary or appellate authority did not justify a finding of major misconduct. It may be noticed that this case had some peculiar facts. The appellate authority had come to the conclusion that the punishment of dismissal was not warranted, and hence the punishment of removal was awarded though it was not one of the enumerated punishments under the relevant rules. In these special facts the Supreme Court directed that a punishment other than the dismissal or removal should be given. This decision cannot be taken to mean that a bank employee cannot be dismissed.

14. In Union of India v. Vishwa Mohan, 1998 (4) SCC 310, the Supreme Court held that in the banking business, absolute devotion, diligence. Integrity and honesty needs to be preserved by every bank employee otherwise the confidence

of the public/depositors would be impaired. The Supreme Court upheld the dismissal order.

15. In Municipal Committee v. Krishnan Behari, JT 1996 (3) SC 96. the Supreme Court held that in cases of financial irregularity there cannot be any punishment other than dismissal, and any sympathy shown in such a case is totally uncalled for and opposed to the public interest. The Supreme Court held that even if the amount misappropriated is small, the act of misappropriation isrelevant and hence dismissal should be imposed.

16. In the present case, the petitioner has been found guilty in a large number of transactions and most of the charges have been found proved. It would not be proper for this Court to Interfere in such a case as that would adversely affect the banking business, which runs on public confidence. For the reasons given above this Is not a fit case for Interference under Article 226 of the Constitution. The petition isdismissed.