

Punishment Of Dismissal Proportionate For Bank Employees For Failure To Discharge Duty: Andhra Pradesh HC

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HIGH COURT OF ANDHRA PRADESH

RAVI NATH TILHARI; J.

WRIT PETITION No. 23310 of 2011; 14.09.2022

Harinarayan Seet versus Andhra Bank

Counsel for the Petitioners: Sri S. V. S. Prasada Rao

J U D G M E N T

Heard Sri S.V.S.Prasada Rao, learned counsel for the petitioner. No representation for the respondents, Andhra Bank through its Chairman and Managing Director and its authorities.

2. The petitioner has filed this writ petition under Article 226 of the Constitution of India challenging the order of dismissal from service dated 30.04.2010 and the appellate order dated 31.12.2010 dismissing the petitioner's departmental appeal. The prayer as made in the writ petition reads as under:

".....to issue an appropriate Writ Order or Direction more particularly one in the nature of Writ of mandamus or any other writ by declaring the action of the respondents 1 to 3 order of dismissal from Banks service vide Lr. No.1603/20/V/T976/2/133 dated 30.04.2010 inflicted against the petitioner and not entertaining the appeal dated 29.07.2010 filed by him against the order of dismissal as arbitrary, illegal and in violation of the principles of natural justice and consequently set aside the same and direct the respondents to reinstate the petitioner as Rural Development Officer Andhra Bank with all consequential benefits and back wages and grant such other relief or relief as this as this Honble Court deems fit and proper in circumstances of the case."

3. The petitioner joined the services of Andhra Bank as Rural Credit Officer Scale-1 Officer on 16.04.1987 and was promoted as Scale-II Officer in July 2002 as Deputy Manager (Rural Development).

4. While serving the said Bank, the petitioner was issued with a charge sheet vide Lr.No.666/20/V/T-976/2/CS/21, dated 20.04.2009, containing the charge of committing serious irregularities in the appraisal of PAGCC Loan proposals at Ravinuthala Branch. The charge was that the petitioner failed to discharge his duties with diligence and devotion in appraising 6 PAGCC loan proposals and making recommendations for sanction without making field visits to confirm the ownership of land, extent of land under cultivation and crops being raised, which acts of the petitioner exposed the bank to a possible undue loss of Rs.4.15 lakh, constituting misconduct under Regulations 3(1) and 24 of the Andhra Bank Officer Employees (Conduct) Regulations (for short 'the Regulations'),

5. The petitioner submitted his explanation to the charge sheet denying the allegations and submitted that he had appraised all the six PAGCC loans and recommended for sanction after making field visits, but inadvertently not recorded the date of visit in the applications. He appraised the loans and recommended for sanction basing on the Mandal Revenue Officer (for short 'MRO') certificates brought by the then Manager Mr. Jalaramaiah. He believed the version of the Manager and believed the documents to be genuine and never doubted him. There is no hard and fast rule that only Rural Development Officer (RDO) has to go for verification of land documents/Pattadar

Passbooks/Revenue certificates. He used to go once in a week from his base branch Ongole for appraisal of the agricultural loans. He further submitted that as per the latest position, the CCATL loans of Nakka Srinivasa Rao and Paleru Sujata are since closed. As per the letter of Tahsildar, Korisapadu Mandal dated 12.11.2008, the name of Marriboina Venkata Rao is not there in the list and as such, the revenue pattadar passbook of M. Venkata Rao may not be a fake one.

6. The respondent bank conducted enquiry. The Enquiry Officer submitted his report dated 23.01.2010 to the disciplinary authority with the finding that the charges leveled against the petitioner in respect of 4 PAGCC loans were proved. The copy of the enquiry officer's report was forwarded to the petitioner on 08.03.2010, against which the petitioner preferred his submissions/explanation vide letter dated 03.04.2010.

7. The disciplinary authority inflicted the punishment of dismissal from bank service vide order dated 30.04.2010. The petitioner's departmental appeal was dismissed on 31.12.2010 by the Chief General Manager & Appellate Authority, 4th respondent.

8. Learned counsel for the petitioner submitted that the petitioner appraised all the six PAGCC loans and recommended for sanction after making field visits, but inadvertently did not record the date of his visit in the applications. The enquiry officer and the disciplinary authority therefore are not correct in recording a finding against the petitioner holding that the petitioner did not make field visits merely because the date was not mentioned in the applications.

9. Learned counsel for the petitioner next submitted that out of six PAGCC loans two loan accounts were closed and out of remaining 4 such accounts, placing reliance on MEx.7 he submitted that in one account the pattadar passbook was genuine.

10. Learned counsel for the petitioner further submitted that the punishment of dismissal is highly disproportionate to the allegations and in the matter of imposition of punishment he has been discriminated, as the Manager who sanctioned the loans was awarded lesser punishment.

11. I have perused the contents of the counter affidavit filed on behalf of the respondents. They have submitted that it was the duty of the petitioner as a Rural Development Officer to make pre-sanction field visit before processing the loan which he utterly failed to discharge. The petitioner admitted that he appraised the loans and recommended for sanction basing on the MRO certificates brought by the then Branch Manager. Their further stand in the counter affidavit is that the petitioner participated in the enquiry but did not produce any document nor any witness on his behalf. The enquiry was conducted as per the principles of the natural justice affording reasonable opportunity of hearing to the petitioner. The orders passed by the disciplinary and appellate authorities were after due consideration of the entire material on record which do not suffer from any legal infirmity.

12. I have considered the submissions advanced by the learned counsel for the petitioner and perused the material on record.

13. In view of the submissions advanced by the learned counsel for the petitioner, the following points arise for determination:

1) Whether the impugned order holding the petitioner guilty of the charges and imposing punishment calls for any interference by this Court?

2) Whether the punishment of dismissal imposed is disproportionate to the proved charges?

Point No.1:

14. The disciplinary authority has clearly recorded a finding that the petitioner appraised the applications for short term agricultural loans (crop loans) and recommended for sanction of PAGCC loans to farmers without making field visits to confirm the existence of borrowers, ownership of land, extent of land under cultivation and crops being raised. The petitioner did not discharge one of his prime duties as processing officer. The appraisal made by the appraising authority forms the basis for credit decision of the sanctioning authority and pre-sanction field visit is the vital pre-requisite to assess the proposal at field level. By not making the pre-sanction field visit for the loans to confirm the ownership of lands, extent of land under cultivation and crops being raised, the petitioner did not discharge one of his prime duties as Processing Officer.

15. The disciplinary authority considered the explanation of the petitioner with respect to the field visits. The petitioner's explanation was that he appraised all the six PAGCC loans and recommended for sanction after making field visits but inadvertently not recorded the date of visit in the applications. The said explanation was not accepted. The disciplinary authority recorded that if the petitioner had really made field visits, the date of visit should have been mentioned in the appraisal made by the petitioner and as the petitioner failed to make the field visits he had not put the date at the space provided for during the appraisal of the proposals. The disciplinary authority recorded that the pre sanction visit was not done and to justify his action, the petitioner was throwing the entire blame against the Manager who was the sanctioning authority. It further recorded that if there were any lapses on the part of the Manager, the same also will be dealt with separately, but that will not absolve the petitioner of the charge against him.

16. The disciplinary authority further recorded that the petitioner being the Processing Officer, was required to ensure the correctness of particulars of extent of land and ownership etc., but there was nothing on record to show that he ensured the verification of particulars with revenue records. It also recorded that the petitioner admitted that he had not cross-checked the records and in the enquiry it was established that the relied upon pattadar pass books were fake and not issued by the Mandal Revenue Officer. The list of persons whose names were mentioned in the pattadar passbook did not tally with the 1B Register of Korisapadu Mandal. It was proved during the enquiry that the pattadar passbook in respect of one borrower Mr.Marriboina Venkatarao was also a fake document though it was not included in MEx.7.

17. The petitioner's contention that the pattadar passbook in respect of Mr.Marriboina Venkatarao was not fake, as it was not included in MEx.7 which included the names of those borrowers whose pattadar passbooks were fake, was clearly dealt with by the disciplinary authority in its order holding that the pattadar passbook of Mr.Marriboina Venkatarao was also found to be fake, though it was inadvertently not included in MEx.7.

18. The aforesaid findings recorded by the disciplinary authority stand affirmed by dismissal of the petitioner's departmental appeal.

19. It has not been disputed that the petitioner did not mention the date of pre-requisite sanction field visit. The petitioner's own case in the writ petition is that though he made the field visit but the date was not recorded in the applications.

20. The finding that the petitioner did not make field visit while appraising the loans proposal and recommended the same without pre-sanction field visit is a finding of fact. The same is based on appraisal of the evidence of the witnesses as also the documents during enquiry and its assessment in the light of the petitioner's explanation. These being findings of fact and as it could not be shown that these suffer from any such irregularity or illegality in recording, so as to call for interference by this Court in the exercise of writ jurisdiction, no interference is called for with the above concurrent findings of fact.

21. In **Allahabad Bank v. Krishna Narayan Tewari**¹ upon which reliance has been placed by the learned counsel for the petitioner, it has been held by Hon'ble the Apex Court that in a case where the disciplinary authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty bound to examine the matter and grant relief in appropriate cases. It has further been held that the writ court would certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself is vitiated on account of violation of principles of natural justice, non-application of mind by the enquiry officer or the disciplinary authority, non-recording of reasons in support of the conclusion.

22. The aforesaid judgment is of no help to the petitioner as this Court finds that the findings recorded by the disciplinary authority do not suffer from any of the infirmities either of violation of principles of natural justice or non application of mind or non-recording of reasons or being unsupported by any evidence on record. The order passed by the disciplinary authority is a reasoned order duly considering the petitioner's explanation to the enquiry officer's report as also considering the documentary and the oral evidence adduced in the enquiry, and on appraisal of the evidence recording the finding that the petitioner did not make field visit and did not discharge his one of the essential duties before processing and recommending the loans.

23. Learned counsel for the petitioner placed reliance on the judgment in the case of **Krishna Narayan Tewari v. Allhabad Bank and ors.**² but against the said judgment the Hon'ble Apex Court allowed the appeal in part in the judgment reported in (2017) 3 SCC 308, which has already been considered above by this Court, finding that the same is of no help to the petitioner.

24. Any illegality in holding enquiry or violation of the principles of natural justice or rules in conducting the enquiry so as to vitiate the enquiry could not pointed out by the learned counsel for the petitioner. In the present case enquiry has been conducted legally, by following the principles of natural justice giving due opportunity of hearing to the petitioner.

25. On Point No.1, it is held that the impugned order holding the petitioner guilty of the charges does not suffer from any illegality and calls for no interference in the exercise of writ jurisdiction.

Point No.2:

26. The contention of the learned counsel for the petitioner is that the punishment of dismissal is disproportionate to the proved charges. 27. This Court is of the considered

¹ (2017) 2 SCC 308

² 2013 LawSuit (All) 3234

view that in the matters of banking, the responsibility on the person is on the higher side and devotion to duty is to be utmost.

28. In Chairman & Managing Director, United Commercial Bank v. P.C.Kakkar³ the Hon'ble Apex Court held that a Bank Officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every Officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and becoming of a bank officer. Good conduct and discipline are inseparable from functioning of every officer/employee of the bank.

29. It is apt to refer paragraph-14 in Chairman & Managing Director, United Commercial Bank (supra) as under:

“**14.** A bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in *Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik* [(1996) 9 SCC 69: 1996 SCC (L&S) 1194] it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court.”

30. Once it is recorded, concurrently, that the petitioner being the employee of the bank and having failed to discharge his duty in processing in the matter of grant of loans which were found to be in the names of fake pattadars, considering the finding of proved guilt recorded concurrently by the disciplinary as also by the appellate authority, the punishment of dismissal cannot be said to be disproportionate to the proved charges.

31. In Canara Bank v. VK.Awasthy⁴ which was a case of the punishment of dismissal on the bank employee, with respect to the quantum of punishment, the Hon'ble Apex Court held that the order of dismissal passed by the Bank did not suffer from any infirmity, as in that case the proved charges clearly established that the employee failed to discharge his duties with utmost integrity, honesty, devotion and diligence and his acts were prejudicial to the interest of the Bank.

32. It is apt to refer paragraphs-21, 22 and 29 in Canara Bank (supra) as under:

“**21.** Coming to the question whether the punishment awarded was disproportionate, it is to be noted that the various allegations as laid in the departmental proceedings reveal that several acts of misconduct unbecoming of a bank official were committed by the respondent.

22. It is to be noted that the detailed charge-sheets were served on the respondent employee who not only submitted written reply, but also participated in the proceedings. His explanations were considered and the inquiry officer held the charges to have been amply proved. He recommended dismissal from service. The same was accepted by the disciplinary

³ (2003) 4 SCC 364

⁴ (2005) 6 SCC 321

authority. The proved charges clearly established that the respondent employee failed to discharge his duties with utmost integrity, honesty, devotion and diligence and his acts were prejudicial to the interest of the Bank. In the appeal before the prescribed Appellate Authority, the findings of the inquiry officer were challenged. The Appellate Authority after analysing the materials on record found no substance in the appeal.

29. Aforesaid being the position, the decisions of the learned Single Judge on the quantum of punishment and of the Division Bench regarding alleged violation of the principles of natural justice cannot be maintained and are, therefore, set aside. The inevitable conclusion is that the order of dismissal as passed by the appellant Bank does not suffer from any infirmity. Appeal is accordingly allowed, but with no order as to costs.”

33. In **Karnataka Bank Ltd. v. A.L.Mohan Rao**⁵ the employee therein was working as an Attender in Karnataka Bank Limited and was charge sheeted for gross misconduct inasmuch as he had colluded with one of the Branch Managers and enabled grant of a fictitious loan in the name of one person, whereas the real beneficiary was another person. After the proper enquiry, the employee was found guilty and his services were terminated. The matter approached the Hon’ble Apex Court. The Hon’ble Apex Court held that the gross misconduct of that nature did merit termination by observing that what other type of misconduct would merit termination and it is not for the Courts to interfere in cases of such gross misconduct with the decision of the disciplinary authority so long as the enquiry is fair and proper and misconduct proved. The order of termination of service was held to be the appropriate punishment.

34. It is apt to refer paragraph-6 in **Karnataka Bank Ltd.** (supra) as under:

“**6.** In our view, a gross misconduct of this nature does merit termination. We fail to see what other type of misconduct would merit termination. It is not for the courts to interfere in cases of gross misconduct of this nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved. In such matters, it is for the disciplinary authority to decide what is the fit punishment. In any case on such a misconduct, it could never have been said that termination of service is not the appropriate punishment.”

35. In **M.L.Singla v. Punjab National Bank**⁶ which was also a case of punishment of dismissal imposed on the Bank employee, the Hon’ble Apex Court held that once it is held that the domestic enquiry is legal and proper and the charges being serious in nature, the order of dismissal cannot be faulted with nor could be said to be in any way disproportionate to the gravity of the charges. The punishment of dismissal was held to be proportionate with the gravity of the charges and was upheld.

36. It is apt to refer paragraphs-44, 46 and 50 in **M.L.Singla** (supra) as under:

“**44.** Having perused the enquiry proceedings along with the enquiry report, we are of the view that no fault of any nature can be noticed in the domestic enquiry proceedings for more than one reason. Firstly, the appellant was given full opportunity at every stage of the proceedings which he availed; secondly, he never raised any objection complaining of any prejudice of any nature being caused to him before the enquiry officer; thirdly, he received all the papers/documents filed and relied upon by Respondent 1 Bank in support of the charge-sheet; fourthly, he filed reply, cross-examined the employer’s witnesses, examined his witnesses in defence, attended the proceedings and lastly, the enquiry officer appreciated the evidence and submitted his reasoned report running in several pages holding the appellant guilty of both the charges.

⁵ (2006) 1 SCC 63

⁶ (2018) 18 SCC 21

46. Once it is held that the domestic enquiry is legal and proper, the next question that arises for consideration is as to whether the punishment imposed on the appellant is just and legal or it is disproportionate to the gravity of the charges.

50. In our opinion, both the charges being serious in nature, therefore, the order of dismissal passed against the appellant cannot be faulted with and nor can it be said to be, in any way, disproportionate to the gravity of charges.

In other words, punishment of dismissal was proportionate with the gravity of the charges and hence deserves to be upheld.”

37. In **Bharat Forge Co.Ltd. v. Uttam Manohar Nakate**⁷ upon which reliance has been placed by the learned counsel for the petitioner, the Hon’ble Apex Court held that if the punishment is harsh, albeit a lesser punishment may be imposed, but such an order cannot be passed on an irrational or extraneous factor and certainly not on a compassionate ground.

38. The Hon’ble Apex Court in **Bharat Forge Co.Ltd.** (supra) reiterated that it is not the normal jurisdiction of the superior courts to interfere with the quantum of sentence, unless it is wholly disproportionate to the misconduct proved. This Court finds that considering the nature of the allegations its proof and that the petitioner was in banking service, the punishment of dismissal from service is not disproportionate. The aforesaid judgment is of no help to the petitioner on the point of punishment.

39. On Point No.2, this Court holds that the punishment of dismissal, for the aforesaid reasons, cannot be said to be disproportionate to the proved charges.

40. It was further contended by the learned counsel for the petitioner that in the matter of imposition of punishment, the authority has acted arbitrarily and in a discriminating manner in imposing minor punishment on the Manager who sanctioned the loans and imposed harsh punishment of dismissal on the petitioner, but the said submission cannot be accepted in view of the uncontroverted contents of paragraph-19 of the counter affidavit, where it has been disclosed that the punishment of dismissal was imposed also upon the Manager which was affirmed by the departmental appellate authority but against the same W.P.No.37680 of 2012 is pending.

41. So far as the Bank is concerned, it has imposed the same penalty of dismissal on Manager also.

42. For the foregoing reasons, this Court does not find any merit in the writ petition which is accordingly dismissed. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed in consequence.

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⁷ (2005) 2 SCC 489