

(2002) 03 KL CK 0059

High Court Of Kerala

Case No: O.P. No. 15555 of 1994 (B)

Natarajan P.P.

APPELLANT

Vs

State Bank of Travancore and
Another

RESPONDENT

Date of Decision: March 15, 2002

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2002) 93 FLR 1234 : (2002) 3 LLJ 201

Hon'ble Judges: J.B. Koshy, J

Bench: Single Bench

Advocate: H.B. Shenoy and B. Ashok Shenoy, for the Appellant; M. Pathrose Mathai, for the Respondent

Final Decision: Allowed

Judgement

J.B. Koshy, J.

Petitioner joined service of the first respondent Bank as a clerk/typist on January 14, 1972. He was promoted as Junior Management Grade Scale I Officer in 1980. He was posted as an Accountant at Mattanchery Branch on August 3, 1987. The Post of Accountant at Mattanchery Branch was upgraded to Middle Management Grade Scale II and that of the Branch Manager to Middle Management Grade Scale HI with effect from January 1, 1988. Upon such upgradation of the post of Accountant, petitioner was required to officiate in the higher grade as Middle Management Grade Scale II Accountant pending the posting of a regular Middle Management Grade Scale II officer to the post. In the meantime, petitioner was instructed to relieve the then Branch Manager to Udyogamandal Branch at the close of business on May 21, 1988 and to assume the temporary charge of Middle Management Grade Scale III Branch Manager as well, along with the officiating duties of Middle Management Grade Scale II Accountant. Then the petitioner was required to discharge the duties of two higher grades in Mattanchery branch from May 22,

1988, that too on an officiating basis.

2. During the period when the petitioner was acting, some irregularities were noticed and he was, issued with Ext. P2 memo in 1991. Before that Ext. P1 was issued to him congratulating his services. It is stated that he is doing good work and motivated the staff for better performance. It is the case of the petitioner that during the period he was officiating as Branch Manager, the Bank was making good profit compared to the previous periods. Ext.P2 charges related to various procedural irregularities in granting credit to various parties without authorisation by extending the terms of the credit and dealing with the cheques without getting proper authorisation from the Controller. An enquiry was conducted wherein the petitioner also participated. It is the case of the petitioner that during enquiry, it was reported after perusal of the documents that no loss was occurred to the Bank due to the above action of the petitioner even though there was procedural error. Interest was also received as can be seen from Page 78 of the enquiry proceedings. Because petitioner was officiating, due to his lack of in-depth knowledge in the procedure and because of his enthusiasm some relaxation was given to regularise the customers of the Bank in the interest of the Bank and it is the contention of the petitioner that even if some irregularities happened, there was no loss to the Bank and everything was done in good faith and Bank has only profited by it and in the absence of any fraud or misappropriation or irregularities extreme punishment of removal from service should not have been issued or a person who is having more than 20 years of good service without any blemish. It was also contended that enquiry procedure was not correct. In that, some of the previous statements were marked without giving a copy and personal hearing was not granted before imposing punishment etc.

3. These contentions were denied by respondent Bank. It is stated that even though no irregularities were noticed earlier, irregularities noticed during the time when he was officiating as Branch Manager was serious which warrants an action by a public sector undertaking Bank. It is also stated that the principles of natural justice and procedural formalities as prescribed by the rules were complied with by conducting enquiry. It is true that under Article 226 this Court cannot sit as an appellate authority over the findings of the Enquiry Officer or over the punishment imposed by the Manager also. Power of jurisdictional review is limited. On going through the files it is seen that a very detailed appeal memorandum is filed before the appellate authority and it was disposed of by Ext. P11. In Ext. P11, all the grounds urged by the petitioner were mentioned. Of course, with regard to lack of personal hearing once an enquiry is conducted, there is no necessity to grant personal hearing as it is for the petitioner to make all his statements during the enquiry. But Appellate Authority has to consider the specific points urged in the appeal, otherwise right of appeal will become empty formality. It is true that while appellate authority confirming the order of disciplinary authority, it is not necessary that he should repeat the findings of the Enquiry Officer or it should be an elaborate order. But at

the same time, the appellate authority should apply his mind over the points raised by the appellant. When about 15 points were specifically raised, the order should show that appellate authority considered the same apart from reiterating the points raised by the petitioner. Operative part of the order shows that there is no application of mind especially with regard to the contention that no loss was caused to the Bank though irregularities were conducted and allegations even if proved will not warrant such an extreme punishment after long period of good service. Serious and specific points raised by the petitioner were not considered by the appellate authority.

4. In the above circumstances, Ext. PII is set aside without making any observations regarding the merits of the matter. The appellate authority directed to reconsider the appeal expeditiously, in any event, within three months from the date of production of a copy of this judgment by the petitioner before the appellate authority.

5. The Original Petition is disposed of accordingly.