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Keshwar Manjhi Vs The State Bank of India and Others

CWJC No. 10441 of 2005

Court: Patna High Court

Date of Decision: July 31, 2007

Citation: (2007) PLJR 286

Hon'ble Judges: Ajay Kr. Tripathi, J

Bench: Single Bench

Advocate: Narendra Prasad and Shyama Kant Singh, for the Appellant; S.D. Sanjay and Suraj Samdarshi, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ajay Kr. Tripathi, J.
Heard learned senior counsel for the petitioner and learned counsel for the respondent State Bank of India.

Petitioner, a former Branch Manager under the Bank, has been removed from service by virtue of an order dated 14.7.2004 contained in

Annexure-12. This is the order which has been passed by the disciplinary authority. On an appeal by the petitioner the appellate authority after due

application of mind affirmed the order of the disciplinary authority. The appellate authority"s speaking order is contained in Annexure-13. In the

present writ application, therefore, Annexure-12 and 13 are the impugned orders.

2. This Court has to take note of a few facts which have arisen prior to filing of the present writ application. Petitioner after due enquiry was found

guilty of some of the charges, which were six in number. The details of the charges are contained in the charge-sheet and a reading of the same

would show that petitioner has not conducted himself with due honesty and integrity in maintaining the accounts of the branch in which he was

posted. In fact petitioner had misused his authority and position to the detriment of the account-holders and the reputation of the Bank. Based on

the findings certain punishment was proposed to be imposed upon the petitioner but that proposed punishment was not agreed to by the appellate

authority which became the issue in a litigation earlier before this Court. Petitioner approached the High Court in C.W.J.C. No. 10811 of 2003.

He had challenged his order of punishment of removal and the submissions which are sought to be made now were made earlier at the relevant

time. In a detailed decision dated 9.1.2004 a Bench of this High Court quashed the orders of punishment but relegated the matter to the stage of

second show cause. Respondents were given a direction to issue a fresh show cause to the petitioner indicating the proposed punishment coupled

with the material on which the authority made up its mind on the issue. In other words by this direction both the respondents as well as the

petitioner were given a fresh opportunity to reconsider the matter. This situation was created because of judicial intervention, therefore, the matter

will have to be considered from point of the second show cause and nothing before that. This is being recorded because an effort was made by the

petitioner to reopen the whole issue and persuade this Court to rehear the issues and adjudicate afresh which was not allowed in the earlier

decision of the Court. In the opinion of this Court it is not legally permissible.

3. Respondents issued second show cause to the petitioner with the evidence and materials. Petitioner filed his reply and after due deliberations the

authorities came to an opinion that looking at the misconduct, lack of integrity and honesty, petitioner did not deserve indulgence in the matter. An

order of removal, therefore, was passed contained in Annexure-12 and duly affirmed in Annexure-13 by the appellate authority.

4. Learned counsel for the petitioner has basically two submissions to make. He submits that somewhere along the authorities were swayed and

impressed upon by the opinion which was given to them by the Central Vigilance Commission (CVC). Opinion of the disciplinary authority was

based on certain material which could not be controverted or to which the petitioner was not privy, which has caused him prejudice. Second

submission of the petitioner is that at one stage the earlier order of punishment contained in Annexure-5 was passed by the same person who

became the appellate authority later. He is same person who passed Annexure-13 and to that extent, therefore, there is an element of bias which

can be presumed in the decision making process.

5. Learned counsel for the respondents, however, rebut both these submissions. Counsel submits that insofar as the first submission is concerned

all the earlier issue came to naught and rest in the order passed in the earlier writ application. After due deliberations and consideration of materials

if the High Court relegated the petitioner to the stage of second show cause and the authority thereafter issued him fresh notice with necessary

materials then this question cannot be raised by him in the present writ application. Insofar as second contention of the petitioner is concerned, the

respondents state that earlier part of the order stood quashed and the matter came to an end because of the judicial intervention. A new appointing

authority had issued the second show cause supplying the material on which the proposed punishment was contemplated. The present appellate

authority has passed his opinion against this order and not against the ear-tier order. Learned counsel for the respondents submits yet another

aspect to fortify the position that the present order came to be passed may be by the same person but in a different order and capacity. Since there

is only one appellate authority as such available in the State of Bihar and Jharkhand then doctrine of necessity can also be invoked in the present

case. This is an alternative argument made by the learned counsel for the respondents to defend the decision of the appellate authority.

6. After due deliberations and hearing the counsels on these issues, the Court comes to an opinion that there is no occasion now to interfere with

the orders which have been passed against the petitioner, contained in Annexure-12 and 13. All the issues and grievances of the petitioner raised

earlier in the earlier writ application begot him relief but that relief was limited to the extent that he along with respondents were given the fullest

opportunity to supply relevant materials to the petitioner based on which the proposed punishment was sought to be imposed. The materials were

brought to the notice of the petitioner and since he failed to satisfy the authorities with regard to the charges and the conduct the authorities

imposed the punishment of removal. This Court records that banking industry is very sensitive industry. It runs on a lot of faith and trust. Since the

charges alleged against the petitioner was prima facie found to be true then it surely will affect the confidence of the people in the Bank and also

mar the reputation of the Bank as such in its dealing with the public at large. Petitioner has landed in trouble because of his own conduct. He

misused the fiduciary relationship as a Branch Manager of the concerned Bank. Prima facie the charges are serious in nature and if the authorities in

their wisdom decide to weed out such elements from its organisation then it cannot be faulted. The punishment imposed is neither disproportionate

or shocking to the conscience. This Court further opines that proper procedure has been adopted in the matter. There has been no violation of

principles of natural justice in the entire proceeding now. The writ application has no merit. The same is accordingly dismissed.