

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No.5474/1998@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE

S.B.I. & Ors.

Appellant (s)

VERSUS

Arvind K. Shukla

Respondent (s)

Date : 21.02.2001 This appeal was called on for hearing today.@@
AA

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. Sundravardan, Sr. Adv.
Mr. R.N. Keshwani, Adv.

For Respondent(s) M/s. Somnath Mukherjee, N.R. Choudhary and
Mr. J.P. Pandey, Advs.

UPON hearing counsel, the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....J.
.SP2

The appeal is dismissed.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
AA
COURT MASTER Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5474/1998@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE

S.B.I. & Ors.

...Appellants

Vs.

Arvind K. Shukla

...Respondent

O R D E R@@
EEEEEEEEEEEE

.....L.....I.....T.....T.....T.....T.....J.
.SP2

State Bank of India is in appeal against the judgment of the Division Bench of the Madhya Pradesh High Court in LPA No. 358/1996. By the said judgment, the Division Bench has affirmed the decision of the learned Single Judge and refused to interfere with the same. It is not necessary to narrate the facts in detail. Suffice it to say that an enquiry was conducted against the delinquent, an Officer of the Bank in respect of charges 1(a), 1(b), 1(c), 1(d) and charges 2 and 3. On the basis of the materials produced, the enquiring officer came to the conclusion that charge 1(c) is fully proved but so far as other charges are concerned, it came to the conclusion that charges have been partly proved. On receipt of the findings of the enquiring officer, the disciplinary authority re-examined the materials and did not agree with the conclusion of the enquiring officer on charges 1(a), 1(b), 1(d), 2 and 3. The disciplinary authority, on the other hand, came to the conclusion that the charges 1(a), 1(b) and 1(d) must be held to have been fully proved, and

- 2 -

taking into account the gravity of the charges, the disciplinary authority recommended the case to the appointing authority for infliction of a major punishment. This he was entitled to under rule 49(g) of the State Bank of India (Supervisory Staff) Service Rules. The appointing authority ultimately terminated the service of the delinquent servant in exercise of his power under rule 68 (3) (iii) of the said service rules. The delinquent then preferred an appeal under the statutory rule, but being unsuccessful therein, preferred a Writ Petition. The learned Single Judge came to the conclusion that non-furnishing of the reasons, which weighed with the disciplinary authority to differ with the findings of the enquiring officer to the delinquent is fatal, and vitiates the ultimate order of punishment inflicted upon, and therefore the learned Single Judge allowed the Writ Petition. The Bank assailed the said order by preferring an appeal, but the Division Bench having dismissed the same, the Bank has preferred this appeal before this Court. The only question that arises for our consideration is whether in a case where disciplinary authority disagrees with the enquiring officer on certain articles of charges, then before it records its findings of such charge, is it duty bound to record its tentative reasons for such disagreement and give the same to the delinquent officer an opportunity to represent before it

ultimately records its findings?

- 3 -

Mr. Sundravardan, the learned senior counsel appearing for the State Bank of India contended before us that in the case in hand, in fact, there has been no disagreement with the findings of the enquiring officer by the disciplinary authority, and on the other hand, the disciplinary authority on the accepted findings of the enquiring officer has recorded his conclusion differently on the basis of the relevant provisions of the rules, and therefore the question of giving an opportunity to the delinquent at that stage does not arise. To appreciate this contention, we have been taken through the findings of the enquiring officer and charges 1(a) and 1(d) as well as the reasonings and ultimate conclusion of the disciplinary authority on those two charges. On examining the same, we are not persuaded to accept the submission of the learned counsel and in our view, the disciplinary authority has disagreed with the conclusion and findings arrived at by the enquiring officer. The next question therefore is, as has been formulated earlier, whether the disciplinary authority was required to record its tentative reasons for disagreement and give to the delinquent officer an opportunity to represent before it recorded its ultimate findings. This question is concluded by a 3-Judge Bench decision of this Court in the case of Punjab National Bank & Ors. Vs. Kunj@ Behari Misra (1998) 7 SCC 84. The Bench in the aforesaid@ case relied upon the earlier decision in the Institute of

- 4 -

Chartered Accountant case as well as the Ram Kishan case and came to hold that the view expressed in S.S. Kaushal and M.C. Saxena cases do not lay down the correct law. Mr. Sundravardan, however, brought to our notice yet another 3-Judge Bench decision in the case of Union Bank of India Vs. Vishwa Mohan (1998) 4 SCC 310, and contended that a different view has been taken in the aforesaid cases. But on examining the aforesaid decision in Union Bank of India case, we find that the question which arose for consideration in the Punjab National Bank case was not really there before the Court and the Court was examining the question as to what would be the effect, if copy of the enquiry report is not furnished to the delinquent employee. The Court obviously relied upon the Constitution Bench decision of this Court in Managing Director, ECIL Vs. B.Karunakar (1993) 4 SCC 727. In the absence of any contrary decision of a 3-Judge Bench decision on the question in issue, we are bound by the earlier judgment of this Court in Punjab National Bank case, necessarily, therefore we do not find any merit in this appeal, which stands dismissed.

.SP1

.....J.
(G.B. PATTANAIAK)

New Delhi,

.....J.

February 21, 2001

(B.N. AGRAWAL)