

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1451 OF 2015

(Arising out of S.L.P.(C) No.16652 of 2012)

UCO Bank and Others Appellant(s)

Versus

Netrananda Patnaik Respondent(s)

O R D E R

Heard Mr. Raju Ramchandran, learned senior counsel for the appellant and Mr. J.K. Das, learned senior counsel for the respondent.

Leave granted.

The respondent was proceeded in a departmental enquiry in respect of the four charges and the Enquiry Officer found him guilty in respect of charge Nos.1, 3 and 4. The Disciplinary Authority disagreed with the Enquiry Officer and after following the due procedure, it recorded that the charge Nos.1, 2 and 3 against the respondent were proved. Regard being had to the nature of the charges and taking note of the facts in entirety, the Disciplinary Authority imposed the punishment of reduction of rank from Middle Management Scale-III to Middle Management Scale-II.

Being grieved by the aforesaid punishment, the respondent preferred an appeal before the competent authority of the Bank. The Appellate Authority after analysing the material on record came to hold that the charge No.1 had been proved and the charge No.2 was proved in part. However, it did not disturb the nature of the punishment.

Being grieved by the aforesaid punishment, the respondent preferred a writ petition before the High Court of Orissa forming the subject matter of W.P.(C) No.972 of 2007. The High Court, by the order impugned, has set aside the punishment on two counts, namely, (i) the charges framed against the respondent-employee were vague, and (ii) that the Enquiry Officer, who was appointed to enquire into the allegations, was not eligible to enquire. Being of this view, the High Court quashed the order of punishment and directed as follows:

"We have no hesitation to hold that the enquiry report and orders of the Disciplinary Authority as well as the appellate authority vide Annexures-9, 11 and 13 respectively are liable to be quashed and accordingly we quash the same. The petitioner is declared to have continued in the Scale-III post which he was occupying at the time of imposition of the punishment. He shall be entitled to all consequential service and financial benefits."

It is submitted by Mr. Raju Ramchandran, learned senior counsel for the appellant that the High Court has

fallen into grave error by opining that the Enquiry Officer was not eligible in law to enquire into the allegations. He has drawn our attention to paragraph 11 of the order of the High Court, wherein the High Court has observed thus:

".....Although in the counter affidavit filed by the opposite parties a plea has been taken that the Regulation has been amended and as per such amended provision a Retired Officer can be appointed as Enquiry Officer, no such amended Regulation was brought to our notice during the course of hearing."

Learned senior counsel has brought to our notice the Circular dated 20.10.2001 of the Bank. On a perusal of the said circular, it is quite vivid that there was an amendment to the UCO Bank Officer Employees (Discipline and Appeal) Regulations, 1976. The sub-regulation (2) of Regulation 6 which was substituted, reads as follows:

"(2) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an officer employee, it may itself enquire into, or appoint any other person who is or has been a public servant (hereinafter referred to as the Inquiring authority) to inquire into the truth thereof."

In view of the aforesaid regulation, we are of the considered opinion that the finding recorded by the High Court on that score is not tenable.

As far as the conclusion arrived at by the High Court about the vagueness of charges is concerned, we are

disposed to think that the charges were vague and, therefore, the High Court is justified in setting aside the punishment. Mr. Raju Ramachandran has submitted that the High Court should have permitted the Bank or granted liberty to proceed with the respondent by framing a fresh charge-sheet. In our considered opinion, regard being had to the facts and circumstances of the case and the efflux of time, liberty need not be granted and, accordingly, we are unable to accept the submission of the learned senior counsel. However, we are unable to agree with the High Court that the respondent shall be entitled to all consequential service and financial benefits. To clarify, he shall continue to be treated as holding the Scale-III post which he was occupying at the time of the imposition of the punishment, but he will not be entitled to get any financial benefits for the said period, but the said period shall be computed towards service for all purposes.

In course of hearing, we have been apprised that the respondent is still working in the Middle Management Scale- II. As we are affirming the order of the High Court, as far as the quashing of punishment is concerned on the ground that the charges were vague, his position in Middle Management Scale-III post shall be restored within three weeks hence.

The appeal is allowed to the extent indicated above.

There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Prafulla C. Pant)

New Delhi;
February 03, 2015.

ITEM NO.9

COURT NO.6

SECTION XIA

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

Petition(s) for Special Leave to Appeal (C) No.16652/2012

(Arising out of impugned final judgment and order dated 06/01/2012
in WPC No. 972/2007 passed by the High Court of Orissa at Cuttack)

UCO BANK & ORS.

Petitioner(s)

VERSUS

NETRANANDA PATNAIK

Respondent(s)

Date : 03/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Raju Ramchandran, Sr. Adv.
Mr. Rajesh Singh, AOR

For Respondent(s) Mr. J.K. Das, Sr. Adv.
Mr. Sandeep D. Das, Adv.
Mr. S.K. Das, Adv.
Mr. D.M. Sharma, Adv.
Mr. Parmanand Gaur, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)