

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2007
(Arising out of S.L.P.(C) No.25256 of 2005)

Bank of Maharashtra & Ors.

Appellants

VERSUS

Harish

Respondent

ORDER

Leave granted.

The respondent at all material times has been working as an employee of the Bank. A domestic inquiry was initiated against the respondent for alleged commission of some misconduct which are as under:

1. Non-staying at Head Quarter (i.e. Sangrampur)
2. irregular attendance and remaining absent without prior permission from Regional Manager;
3. Remaining absent alongwith cash keys on 30.7.1990;
4. Excess and wrong payment of overtime to staff"

In terms of the Regulations applicable to the respondent namely

Bank of

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Maharashtra Officer Employees' (Discipline & Appeal) Regulations, 1976, a charge-sheet was issued to him to show cause as to why a minor penalty shall not be imposed on him. By reason of an order dated 26.2.1991 the Disciplinary Authority while holding the respondent liable for violation of Regulations 3(i), 13(1) and 13(2) of the said Regulations imposed a penalty of withholding of one increment with cumulative effect and censure.

An appeal preferred thereagainst was dismissed by the Disciplinary Authority in following terms :

1. Breach of Conduct regulations:-

No.13(1) proved fully.

Penalty : withholding of one increment with cumulative

2. Breach of conduct regulations :-

No.13(2) proved fully,
Penalty- withholding of one increment with cumulative effect.

3. Breach of Conduct regulations :-
No.13 (1) ...Proved partly
Penalty:Censure"

The appeal preferred by the respondent herein resulted in modifications of the said order of penalty by the appellate authority, in the following terms:

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"However, having regard to the entirety of the situation and the reasons put forth by the appellant employee as reasons beyond his control, I take a considerate stand and offer remission in the punishment awarded by Disciplinary Authority in respect of charge no.1 as under.

For Charge No.1. Breach of Bank of Maharashtra Officer Employees' (Conduct) Regulation

No.13(1)

- Withholding of one increment without cumulative effect.

However, I uphold the punishment of "Withholding of one increment with cumulative effect" and "Censure" awarded by Disciplinary Authority in respect of charge Nos.2 and 3 (i.e. Breach of Bank of Maharashtra Officer Employees' (Conduct) Regulation Nos.13(2) and 3(1).

I further order that the punishment awarded in respect of charge Nos.1 and 2 shall run concurrently. With this, the Appeal dated 14.4.1991 preferred by Shri Hareesh Gajanan Agrawal, Appellant employee stands disposed."

In *Kulwant Singh vs. State of Punjab* 1991 Supp (1) SCC 504 Rule 5 of the Punjab Civil Services (Punishment & Appeal) Rules which was found to be applicable reads as under:

"5. Penalties - The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed on a government employee, namely :-

MINOR PENALTIES

- (1) Censure
- (2) withholding of his promotions;
- (3) recovery from his pay of the whole or part of any pecuniary loss caused by him to the government by negligence or breach of orders
- (4) withholding of increments of pay."

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In *Executive Director, Syndicate Bank & Ors. vs. K.C. Arya and another* 1996 II LLJ 123 this Court noticing the said decision distinguished it having regard to the regulations of the Syndicate Bank viz-a-viz the Punjab Civil Service Regulations and held as under:

"Shri Madhava Reddy, the learned senior counsel for the appellants, has submitted that the scheme of the Regulations differs from that of the Punjab Rules which were under consideration in *Kulwant Singh Gill's* case (supra) because in Regulation 4(b) of the Regulations it is expressly provided that withholding of increment of pay with cumulative effect is a minor penalty. The submission of Shri Reddy is that in view of such an express provision in the Regulations it is not necessary to consider whether withholding of

an increment with cumulative effect could constitute the major penalty of reduction to a lower grade of post or a lower stage of time scale under Regulation 4(e) of the Regulations. The submission of Shri Reddy is further that since Regulation 4(b) of the Regulations differs from Rule 5(iv) of the Punjab Rules the decision in Kulwant Singh Gill's case (supra) would not be applicable to the present case.

We find considerable substance in these contentions. Since Regulation 4(b) of the Regulations expressly prescribes that withholding of the increment with cumulative effect is a minor penalty, which was not so in Rule 5(iv) of the Punjab Rules, as emphasised in Kulwant Singh Gill's case (supra), we are of the view that insofar as the Regulations are considered withholding of an increment with cumulative effect is to be treated as a minor penalty and the imposition of the said penalty by following the procedure prescribed for imposition of minor penalties cannot be held to be in violation of the Regulations."

In view of the aforementioned decision we have no doubt in our mind that the High Court's judgment cannot be sustained and we set aside the same accordingly.

Learned counsel for the respondent, however, submitted that there are certain
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other infirmities in the order impugned before the High Court which has not been considered by it. In view of the above statement we remit this matter back to the High Court for consideration on the question(s), if any, which has not been considered by it in the impugned judgment.

The civil appeal is disposed of accordingly. No costs.

.....J.
.....

(S.B.SINHA)

.....J.
.....

(H.S. BEDI)

New Delhi
Date: July 23, 2007

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ITEM NO. 46

COURT NO.6

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).25256 of 2005

(From the judgement and order dated 31.8.2005 in WP No.56/1993 of the High Court of Bombay at Nagpur)

Bank of Maharashtra & Ors.

Petitioner(s)

VERSUS

Harish
Respondent(s)
(With appln. For exemption from filing O.T. and
with prayer for interim relief)

Resp

Date: 23/07/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE H.S. BEDI

For Petitioner(s) M/S. K.L. Mehta & CO.

For Respondent(s) Mr. Gagan Sanghi, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is disposed of in terms of the signed order.

(P.P. Sharma)

(Pushap Lata Bhardwa

j)

AR-Cum-PS

Court Master

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(The signed order is placed on the file)