Rai Bareli Kshetriya Gramin Bank vs Bhola Nath Singh & Ors on 28 February, 1997

Equivalent citations: AIR 1997 SUPREME COURT 1908, 1997 (3) SCC 657, 1997 AIR SCW 1661, (1997) 2 SCR 588 (SC), 1997 (2) SCR 588, (1997) 2 CTC 31 (SC), (1997) 3 JT 717 (SC), 1997 (2) SERVLJ 126 SC, 1997 (3) SCALE 86, 1997 (2) CTC 31, 1997 (3) ADSC 612, 1997 LAB LR 407, (1997) 2 SCT 640, (1998) BANKJ 93, (1997) 76 FACLR 313, (1997) 3 LAB LN 59, (1997) 2 SERVLR 433, (1997) 3 SCALE 86, (1997) 1 CURLR 838, (1997) 34 BANKLJ 126, (1997) 3 SUPREME 480, 1997 SCC (L&S) 865, (1999) 1 LABLJ 947

Author: K. Ramaswamy

Bench: K. Ramaswamy

PETITIONER:
RAI BARELI KSHETRIYA GRAMIN BANK

Vs.

RESPONDENT:
BHOLA NATH SINGH & ORS.

DATE OF JUDGMENT: 28/02/1997

BENCH:
K. RAMASWAMY, SUJATA V. MAMOHAR

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted. We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the single Judge of the Allahabad High Court, made on April 19,1996 in writ Petition no. 10200/90.

The admitted position is that the respondent, while working as cashier-cum-clerk in the appellant Bank, was charged with the allegation that he had fraudulently withdrawn a sum of Rs. 28,500/- on different dates from the saving accounts of different account holders by forging the bank records and signatures of the saving bank account holders. A charge sheet was served upon him to which the respondent gave his reply. An enquiry was conducted in which he did not participate. Proceedings were conducted ex-parte. Then, the enquiry officer, after detailed examination of the evidence adduced, recorded findings that the respondent was guilty of misconduct for forgery of the signatures and for fraudulent withdrawal of the amounts. Accordingly, he submitted his report. The disciplinary authority on April 17, 1989 had given the respondent a show cause notice as to why the punishment of dismissal should not be imposed on him. The respondent submitted his reply there to on April 11, 1990. On consideration thereof, the disciplinary authority imposed the punishment of the dismissal from service. In appeal, the Board had considered the entire record and confirmed the order dismissing the respondent from service. The respondent , thereafter, filed the writ petition in the High court. The learned judge has gone into the merits of the matter and found that the charges have not been proved. Ultimately, he quashed the punishment of dismissal from service. Thus, this appeal by special leave, Shri Altaf Ahmed, learned Additional Solicitor General, has contended that the procedure adopted by the leaned Judge is not correct in law. Even the writ petition was not maintainable because the alternative remedy of adjudication under the Industrial Disputes Act is Available. Therefore, the order of the learned single Judge is vitiated by error of law. Shri Yogeshwar Prasad, learned senior counsel for respondent, contends that all the steps taken by the enquiry officer in conducting enquiry were not in accordance with law. The Branch Manager has admitted in a letter that he is responsible for the withdrawal of the amounts; the respondent was made a scapegoat; the hand writing expert was not examined in the enquiry and, therefore, there is no admissible evidence to show that the respondent had forged the signatures of the account holders and withdrawn the amount. His application to summon the witness and to cross examine them was denied violating the principles of natural justice. The High court, therefore, was right in holding that the charges have not been proved against the respondent beyond doubt.

Having regard to the respective contentions, the only question that arises for consideration is: whether the conclusion reached by the High court is correct in law? It is not in dispute that the procedural steps under the disciplinary rules, required by the appellant, have been followed. After the enquiry was concluded and report was submitted, the disciplinary authority had given him a show cause notice to the proposed punishment and the respondent also submitted his explanation. After consideration of the report and the reply, the punishment of dismissal was imposed by the disciplinary authority against which an appeal was filed. At that stage, he made an application for summoning the witnesses afresh. That application was dismissed by the appellate authority. That order also was allowed to become final. The appeal was dismissed by the Board.

Under these circumstances, the question arises: whether the High Court would be correct in law to appreciate the evidence and the manner in which the evidence as examined and to record a finding in the behalf? The judicial review is not akin to adjudication of the case on merits as an appellate authority. The High court, in the proceedings under Article 226 does not act as an appellate authority but exercises within the limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or voidation of principles of natural justice. In this case, no such

errors were pointed out nor any finding in that behalf was recorded by the High court. On the other hand, the High Court examined the evidence as if it is a Court of first appeal and reversed the finding of fact recorded by the enquiry officer and accepted by disciplinary authority. Under these circumstances, the question of examining the evidence, as was done by the High Court, as a first appellate court, is wholly illegal and cannot be sustained.

Accordingly, we set aside the order of the High court and allow the appeal. consequently, the order of dismissal stands upheld. No costs.