

S.C. Girotra vs United Commercial Bank (Uco Bank) And ... on 18 February, 1994

Equivalent citations: (1996)ILLJ10SC, 1995SUPP(3)SCC212, AIRONLINE 1994 SC 208, 1995 SCC (L&S) 1140, (1996) 1 LAB LN 26, (1996) 1 LAB LJ 10, (1995) 30 ATC 627, (1996) 1 BANK CLR 248, 1995 SCC (SUPP) 3 212

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Bench: J.S. Verma, S.P. Bharucha

ORDER

J.S. Verma, J.

1. Leave granted. Heard on merits.

2. The appellant was employed as Manager in the United Commercial Bank, Punjab at Chandigarh when he was dismissed from service by order dated February 6, 1986. His appeal against the order of dismissal having failed, he filed a writ petition in the High Court. The learned Single Judge allowed the writ petition and set aside the order of dismissal on the ground that the same was passed in breach of the principles of natural justice. The management then preferred a Letters Patent Appeal before the Division Bench which has been allowed. Hence this appeal by special leave.

3. Admittedly, the disciplinary authority while making the order of dismissal stated as under:

The presenting officer has submitted 28 exhibits, most of which are in the form of certificates of Shri Rajinder Paul and B.B. Bhatia, Officer and the then Assistant Manager of the branch, while one document (PEX-26) is in the form of inspection/investigation report of Shri V.P. Jindal and Shri J.R. Sharma. The certificates and inspection-cum-investigation report are most comprehensive documents.

Inspection-cum-investigation report has been prepared by two senior officers of the then Division Office, Punjab Division, Chandigarh, after their painstaking efforts of about two months. This has been substantiated by various certificates of the two officers of the branch.

All the four officers appeared before the Enquiry Officer" and testified to their authorship of the documents. Their certificates/Inspection-cum-Investigation Report comprehensively cover all the allegations/charges made/leveled in the charge-sheet. They have also been supported by other documents.

From the above extract it is clear that the report on which reliance was placed by the disciplinary authority was a comprehensive document in which conclusions were reached against the appellant on the basis of materials including the books and records of the bank as well as some certificates issued by officers of the bank which constituted evidence in support of the charges leveled against the appellant. It is also clear that no opportunity was given to the appellant to cross-examine either the makers of that report, Mr. V.P. Jindal and Mr J.R. Sharma or the officers who had granted such certificates which formed evidence to prove the charges which led to the order of dismissal passed by the disciplinary authority, even though those persons were examined for the purpose of proving the documents relating to them. In our opinion, the grievance made by the appellant that refusal of permission to cross-examine these witnesses was denial of reasonable opportunity of defence to the appellant, is justified.

4. It has also been urged by the learned Counsel for the appellant that certain witnesses who were officers of the bank and whom the appellant wanted to examine in his defence could not be examined because the management required the appellant to produce those witnesses without rendering any assistance for procuring their presence even though officers of the bank were amenable only to control of the bank's management. However, the appellant could not specify the name of any such persons in response to our query at the hearing. This grievance does not, therefore, merit any consideration.

5. in view of the infirmity in the inquiry indicated earlier, it is appropriate that the inquiry proceedings are set aside from the stage of the enquiry report and the respondent-bank is directed to conduct the inquiry afresh from that stage giving the appellant due opportunity to defend himself. For this purpose the appellant should be given the opportunity to cross-examine V.P. Jindal, J.R. Sharma, Rajinder Paul and B.B. Bhatia who were examined by the management in support of the charges. The Enquiry Officer must then conclude the inquiry and make the report on the entire materials before him. Further action must then be taken in accordance with law based on the finding given by the Enquiry Officer. In the circumstances of the case, we also direct that the appellant shall remain under suspension from today and he be dealt with according to the rules and regulations applicable to him in this behalf. The appellant, during the period of his suspension commencing from today shall be paid subsistence allowance at the current rates in accordance with the rules. The appellant shall report to the Zonal Manager, Chandigarh Zone of the respondent-bank on March 1, 1994 for taking further directions in this behalf and he shall fully cooperate with the authorities to enable completion of the inquiry as early as possible and preferably by the end of May 1994.

6. Consequently the appeal is allowed in this manner with the result that the order of dismissal made against the appellant is set aside and his writ petition is allowed in the terms indicated. No costs.