

## **State Bank Of Bikaner & Jaipur & Ors vs Shri Prabhu Dayal Grover on 19 September, 1995**

**Equivalent citations: 1996 AIR 320, 1995 SCC (6) 279, 1995 AIR SCW 4117, 1995 (6) SCC 279, 1996 LAB. I. C. 210, (1995) 2 CURLR 1158, (1996) 72 FACLR 1, (1996) 2 BANKLJ 107, (1996) 1 SERVLJ 145, (1996) BANKJ 390, (1995) 31 ATC 492, (1995) 2 BANKCAS 485, (1996) 1 LABLJ 288, 1996 UJ(SC) 1 30, (1995) 4 SCJ 140, (1995) 4 SCT 672, (1995) 7 JT 207 (SC), AIR 1996 SUPREME COURT 320, 1995 SCC (L&S) 1376**

**Author: M.K Mukherjee**

**Bench: M.K Mukherjee, B.P. Jeevan Reddy**

PETITIONER:

STATE BANK OF BIKANER & JAIPUR & ORS.

Vs.

RESPONDENT:

SHRI PRABHU DAYAL GROVER

DATE OF JUDGMENT 19/09/1995

BENCH:

MUKHERJEE M.K. (J)

BENCH:

MUKHERJEE M.K. (J)

JEEVAN REDDY, B.P. (J)

CITATION:

1996 AIR 320

1995 SCC (6) 279

JT 1995 (7) 207

1995 SCALE (5) 574

ACT:

HEADNOTE:

JUDGMENT:

WITH CIVIL APPEAL NO.8739 OF 1995 (arising out of S.L.P. (C) NO.10790 of 1992) Prabhu Dayal Grover Versus State Bank of Bikaner & Jaipur & Ors.

J U D G M E N T M.K. MUKHERJEE, J.

Leave granted. Heard the learned counsel for the parties.

While working as the Manager of the Ridmalsar Branch of the State Bank of Bikaner and Jaipur ('Bank' for short), Prabhu Dayal Grover ('Grover' for short) was proceeded against departmentally for accepting bribe from one Maniram and removed from service on May 27, 1983. As the appeal preferred by him before the Executive Committee of the Bank proved abortive he instituted a civil suit in the Additional Court of the Munsif at Jaipur for a declaration that the orders passed by the Disciplinary Authority and the Appellate Authority were illegal and void and for consequential reliefs. The trial Court decreed the suit with the following findings:

- "i) the provisions of Regulation 68(2)(iii) of the State Bank of Bikaner and Jaipur Officers' Service Regulations 1979 ('Regulations' for short), which governed the departmental enquiry had been violated in as much no definite and distinct charges had been framed against the plaintiff (Grover) and he had been punished on the basis of a show cause notice only. Even statement of allegations had not been furnished to him;
- ii) a copy of the enquiry report was also not made available to Grover before the order of removal was passed;
- iii) the Disciplinary Authority had not applied its mind, before passing the order of punishment and it merely agreed with the findings of the Enquiry Officer and
- iv) the Appellate Authority had also dismissed the Departmental Appeal without giving any reason."

The appeal preferred by the Bank against the judgment and decree of the trial Court was dismissed by the Additional District Judge, Jaipur and the above findings were affirmed. The Appellate Court, however, granted liberty to the Bank to institute a fresh departmental enquiry with the stipulation that the liberty must be exercised within two months. The Bank then filed a second appeal in the High Court which was dismissed in limine. Grover also preferred a second appeal assailing the liberty granted to the Bank to hold a fresh enquiry which was also dismissed. Hence these two appeals, one at the instance of the Bank and the other by Grover. Of them we first proceed to deal with the merits of the former for in case the same succeeds, the other has got to be dismissed.

Mr. Altaf Ahmad, the learned Additional Solicitor General appearing on behalf of the Bank first contended that the finding of the trial Court that the order of removal was bad as the report of the Enquiry Officer was not furnished to Grover before it was made, was liable to be set aside in view of the judgment of the Constitution Bench of this Court in Managing Director ECIL vs. B. Karunakar 1993 (4) SCC 727 wherein it has been held that orders of punishment passed prior to the date on which the decision in Union of India vs. Mohd. Ramzan (1991) 1 SCC 588 was made, that is on November 30, 1990 should not be disturbed for non-furnishing of the enquiry report and the

disciplinary proceedings which gave rise to such orders should not be reopened on that account. As regards the finding of the trial Court that no definite and distinct charge had been framed against Grover and even statement of allegations had not been furnished as required under Rule 68 of the Regulations, Mr. Ahmad contended that the enquiry was not and could not have been held under the said Regulations as they came into effect on and from April 30, 1980 that is, after the proceeding against Grover was initiated. According to Mr. Ahmad, the enquiry in question was governed by and held strictly in accordance with the procedure laid down by the Bikaner Unit of the Bank in its Circular No.46 of 1961 dated March 6, 1961. He drew our attention to the following paragraph of the circular:

"Before it is decided to dismiss an officer or to require an officer to resign from the service or to reduce an officer to a lower grade for an offence of which he has been found guilty, he be called upon to show cause by such date as be fixed by the General Manager why such action should not be taken against him."

to contend that the charge-sheet was submitted in terms thereof He next submitted that even if it was assumed that the Regulations were applicable still the failure to furnish a statement of allegations in support of the charge would not make the enquiry, and, for that matter, the order of punishment bad, for along with the charge sheet a copy of the complaint received from Maniram, and lists of witnesses and statements and documents by which charges were proposed to be sustained were furnished to Grover. Besides, Mr. Ahmad submitted, at no stage of the departmental proceedings Grover asked for the statement of allegations nor did he raise any grievance on that score before the Appellate Authority which necessarily meant that he was not in any way prejudiced in his defence thereby. Regarding the other two findings of the trial Court Mr. Ahmad's submission was that the orders themselves would show that they were well reasoned and speaking. This apart, Mr. Ahmad contended that when the disciplinary authority agreed with the finding of the Enquiry Officer it was not necessary to discuss the evidence and give reasons for the findings. In support of this contention he relied upon the judgments of this Court in *Ram Kumar vs. State of Haryana* AIR 1987 SC 2043, *S.N. Mukherjee vs. Union of India* (1990) 4 SCC 594 and *Som Datt vs. Union of India* (1969) 2 SCR 177.

In responding to the above contentions of Mr. Ahmad, Mr. Dutta appearing for Grover fairly conceded that he was unable to sustain the finding of the learned Courts below as regards the non-furnishing of the copy of the enquiry report in view of the judgment of this Court in *ECIL* (supra). He, however, strenuously urged that the other findings of the trial Court and the Appellate Court were unassailable. In elaborating his contentions he first submitted that the departmental enquiry in the instant case could have been - and indeed was - held in accordance with the Regulations and as admittedly the requirement of Regulation 68(2)(iii) was not complied with, the departmental proceedings must be said to be void ab initio. To reinforce his submissions he drew our attention to the judgments of this Court in *Surath Chandra vs. State of West Bengal* AIR 1971 SC 752 and *Kulwant Singh Gill Vs. State of Punjab* 1991 Supp (1) SCC 504. Similarly, he contended, in view of this Court's pronouncements in *Ram Chander vs. Union of India & Ors.* 1986 (2) SCR 980, *M.P. Industries vs. Union of India* 1966(1) SCR 466, *A.L. Kalra vs. The Project & Equipment Corporation of India Ltd.* 1984 (3) SCR 646 and *R.P. Bhatt vs. Union of India & Ors* 1985 (Supp) 1

SCR 947, the orders of the Disciplinary Authority and the Appellate Authority could not be legally sustained as neither of them had given any reason for their respective decisions.

In the context of the respective stands of the parties the first and the foremost question that falls for our determination is whether any charge-sheet was drawn up and served in accordance with the extant rules and, if not, what would be the effect thereof. To answer this question it will be necessary to first quote in extenso the letter dated April 3, 1980 served by the Bank upon Grover which according to it was the charge-sheet. It reads as under:

"Shri P.D. Grover, C/o Regional Manager Sectt., State Bank of Bikaner & Jaipur, Head Office, JAIPUR.

VI/36/C/1050 3.4.1980 Dear Sir,

1. DISCIPLINARY ACTION:

The following act of misconduct is alleged to have been committed by you during your incumbency as Manager of our Ridmalsar, one man office, during the year 1978:-

"You demanded and accepted a bribe of Rs.300/- from Shri Maniram for issuing a demand draft of Rs.48,000/- on account of the loan amount sanctioned in favour of Shri Maniram and his father Shri Ram Rakh Bishnoi for purchasing a tractor."

2. You have thus acted in a manner prejudicial to the interests of the Bank and apparently failed to maintain absolute integrity and devotion to duty quite apart from abusing your official position. The explanations you have so far offered to the Central Bureau of Investigation in respect of the aforesaid misconduct are found unsatisfactory and, therefore, unacceptable to us.

3. List of witnesses by whom and list of documents by which the charges as proposed to be sustained are enclosed along with copies of the relevant statements and documents.

4. Please note that if you do not comply with the rules or the directions issued to you or do not co-operate with the disciplinary authority or bring external or political pressure on any superior authority to further your interests in the proceedings, you will render yourself liable for further disciplinary action.

5. In terms of paragraph 2 of our Private & Confidential Circular No. SBBJ/16/65 dated 23.6.1965, please show cause in writing within 7 days of receipt of this letter why disciplinary action be not taken against you stating clearly whether the charge is admitted by you or denied.

Yours faithfully, Sd/-

Managing Director."

From a bare perusal of the above letter it is evident that it complies with the requirement of the circular quoted earlier and, therefore, if the circular had been operating in the field at the material time to govern the departmental proceedings relating to the Officers of the bank, as contended by it, the finding of the learned Courts below in this regard has got to be set aside. But then, as noticed earlier, the learned Courts below found that the departmental enquiry was, to be held in accordance with the Regulations. We need not, however, delve into the question as to whether the above finding is correct or not, for even if we proceed on the basis thereof we reach the same conclusion.

Regulation 68 (2) (iii) provides that where it is proposed to hold an enquiry the Disciplinary Authority shall frame definite and distinctive charges on the basis of the allegations against the Officer and the articles of charge, together with a statement of the allegations on which they are based, shall be communicated in writing to the Officer. Needless to say, the above Regulation seeks to fulfil one of the basic postulates of the rules of natural justice that a fair, adequate and reasonable opportunity of being heard should be given to the person arraigned which, obviously, would not be possible unless he is specifically told of the accusations levelled against him. Judged in that light, we are unable to hold, in the facts of the instant case, that Grover was not so told. Of course, it may be said that the letter communicating the accusation made against Grover which we have reproduced above does not answer the description of a 'formal chargesheet' but then the contents thereof specifically disclose the charge levelled against him, namely, that of accepting a bribe of Rs.300/- from Sri Maniram in the year 1978 for issuing a demand draft in favour of him and his father. It may also be said that the exact date of acceptance of bribe was not disclosed therein but then along with the letter was enclosed a copy of the complaint received from Maniram which not only discloses that date but also satisfied the requirement of a 'statement of allegations' envisaged in Regulation 68 in that all the details regarding the demand and acceptance of the bribe have been stated. It cannot, therefore, be said that Grover was not fully apprised of the accusation levelled against him to enable him to effectively reply thereto. In other words, the provisions of the Regulation have been substantially complied with, though not formally. This conclusion of ours is strengthened by Grover's reply to the chargesheet which clearly indicates that he fully understood the charge levelled against him. It reads as under:

"The Managing Director, State Bank of Bikaner & Jaipur, Head Office, Jaipur.

Dear Sir, (THROUGH PROPER CHANNEL) "DISCIPLINARY ACTION:

With reference to your letter no. VI/36/C/1050 of the 3rd instant, the allegations made in the charge sheet is false and is denied. Had there been any truth or substance in the allegation, the CBI, the highest investigating agency in the country by whom the matter had been investigated, would have registered a suitable case against me. There is, therefore, no justification in conducting departmental enquiry against me. I request you to kindly drop the disciplinary action against me to meet

the ends of natural justice.

Yours faithfully, Sd/- 14.4.1980 (P.D. GROVER) Officer, Grade II"

While on this point, it need also be stated that at no point of time during the departmental proceeding or before the Appellate Authority did Grover raise any objection regarding non furnishing of the statement of allegations much less that he was prejudiced thereby.

We may now advert our attention to the cases of Surath Chandra (supra) and Kulwant Singh (supra) on which Mr. Dutta strongly relied to contend that in case of disregard of any statutory rule relating to holding of an enquiry the entire proceeding was liable to be quashed. In Surath Chandra's case the appellant, who was an employee of the State Government, had received a communication containing a number of charges but no statement of allegations on which those charges were based was sent to him. In replying thereto the appellant stated, in categorical terms, that the charges and allegations were vague, indefinite and lacking in material particulars and pointed out that "unless the charges are made specific to the point and contain full details with date, time, place and person etc. it is impossible for him to meet them properly". Without complying with his such request the Disciplinary Authority continued with the enquiry proceeding and ultimately he was removed from service. Aggrieved thereby he filed a suit in the High Court and in paragraph 19 of the plaint he specifically alleged that the enquiry was vitiated because under the rules and procedure for holding such an enquiry he was entitled to be furnished with definite charges but the charges and allegations made against him were vague, indefinite and lacking in material particulars and in spite of repeated requests those were neither made specific nor material particulars like date, time, place and persons were supplied. A learned Single Judge of the Court who tried the suit found that no particulars and other necessary details were given in the charges and they were vague resulting in non-compliance with Rule 55 of the Civil Services (Classification, Control and Appeal) Rules and that the necessary particulars were not supplied in spite of repeated objections of the appellant to the charges being vague and indefinite. On the above and other findings the learned Single Judge decreed the suit of the appellant. In appeal the Division Bench set aside the findings of the learned Single Judge and dismissed the suit but granted a certificate to move this Court. In setting aside the judgment of the Division Bench this Court first observed that if a person was not told clearly and definitely what the allegations were on which the charges preferred against him were founded, he could not possibly by projecting his own imagination, discover all the facts and circumstances that might be in the contemplation of the authorities to be established against him. This Court further observed that the whole object of furnishing the statement of allegations was to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up defence. The Court then illustrated the utter vagueness of the charges levelled against the appellant therein by referring to one of them and the reply of the appellant thereto. On such consideration the Court held that each charge was so bare that it was not capable of being intelligently understood and was not sufficiently definite to furnish materials to the appellant to defend himself. In the context of the above facts the Court then observed that the whole object of furnishing the statement of allegations under Fundamental Rule 55 was to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up defence. The Court lastly concluded:-

The entire proceedings show a complete disregard of Fundamental Rule 55 in so far as it lays down in almost mandatory terms that the charges must be accompanied by a statement of allegations. We have no manner of doubt that the appellant was denied a proper and reasonable opportunity of defending himself by reason of the charges being altogether vague and indefinite and the statement of allegations containing the material facts and particulars not having been supplied to him. In this situation, for the above reason alone, the trial Judge was fully justified in decreeing the suit."

From the above resume it is evident that in setting aside the order of removal this Court was influenced primarily by the facts that the charges were totally vague and indefinite and that in spite of repeated requests made the disciplinary authority did not furnish the detailed particulars thereby depriving him of his legitimate right to defend himself. It is in resulting in non-compliance with Rule 55 of the Civil Services (Classification, Control and Appeal) Rules and that the necessary particulars were not supplied in spite of repeated objections of the appellant to the charges being vague and indefinite. On the above and other findings the learned Single Judge decreed the suit of the appellant. In appeal the Division Bench set aside the findings of the learned Single Judge and dismissed the suit but granted a certificate to move this Court. In setting aside the judgment of the Division Bench this Court first observed that if a person was not told clearly and definitely what the allegations were on which the charges preferred against him were founded, he could not possibly by projecting his own imagination, discover all the facts and circumstances that might be in the contemplation of the authorities to be established against him. This Court further observed that the whole object of furnishing the statement of allegations was to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up defence. The Court then illustrated the utter vagueness of the charges levelled against the appellant therein by referring to one of them and the reply of the appellant thereto. On such consideration the Court held that each charge was so bare that it was not capable of being intelligently understood and was not sufficiently definite to furnish materials to the appellant to defend himself. In the context of the above facts the Court then observed that the whole object of furnishing the statement of allegations under Fundamental Rule 55 was to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up defence. The Court lastly concluded:-

The entire proceedings show a complete disregard of Fundamental Rule 55 in so far as it lays down in almost mandatory terms that the charges must be accompanied by a statement of allegations. We have no manner of doubt that the appellant was denied a proper and reasonable opportunity of defending himself by reason of the charges being altogether vague and indefinite and the statement of allegations containing the material facts and particulars not having been supplied to him. In this situation, for the above reason alone, the trial Judge was fully justified in decreeing the suit."

From the above resume it is evident that in setting aside the order of removal this Court was influenced primarily by the facts that the charges were totally vague and indefinite and that in spite of repeated requests made the disciplinary authority did not furnish the delinquent the detailed particulars thereby depriving him of his legitimate right to defend himself. It is in that context that the Court laid emphasis upon the requirement of furnishing the statement of allegations in Fundamental Rule 55; but it cannot be said that this Court laid down, as an abstract proposition of law in *Surath Chandra's* case that whenever there is a breach of any statutory rule in conducting a departmental enquiry it will render the entire proceeding bad, irrespective of the nature of the breach, as contended by Mr. Dutta.

In *Kulwant Singh's* case (*supra*) the question that fell for determination by this Court was whether an employee of the Government of Punjab, whose service was governed by the Punjab Civil Service (Punishment and Appeal) Rules, 1970 could be visited with a major penalty without holding a regular enquiry in accordance with those Rules. The question arose in the context of the fact that the major penalty was imposed solely on the ground that the explanation to the charge-sheet was unsatisfactory. In answering the question in favour of the employee this Court held that if a minor penalty as envisaged under the Rules was only imposed a regular enquiry was not required to be gone into but as the impugned order was a major penalty a regular enquiry had got to be held. Evidently, the above principle has no manner of application to the facts of the instant case.

Now that we have found that the departmental proceeding cannot be faulted for purported breach of Regulation 68 (2)

(iii), we have next to ascertain whether the findings of the learned Courts below regarding the orders of the Disciplinary Authority and the Appellate Authority can be sustained or not. Before considering them in the light of their factual contents, it will be apposite to look into the law laid down by this Court regarding furnishing of reasons by administrative authorities for its decisions. As earlier noticed, the learned counsel for the parties referred to a number of decisions of this Court on the subject, but to avoid prolixity we would only refer to that in *S.N. Mukherjee's* case (*supra*), as it was rendered by a Constitution Bench of five Judges. In that case, the following two questions fell for determination:-

"(i) Is there any general principle of law which requires an administrative authority to record the reasons for its decision; and

(ii) If so, does the said principle apply to an order confirming the findings and sentence of a Court martial and post-confirmation proceedings under the Act?"

After referring to the earlier decisions of this Court and the relevant law prevalent in other countries, this Court answered the first question-with which we are only concerned in these appeals



as under:-

"For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision."

In view of the answer so given, it has to be now seen whether under the Regulations, the concerned authorities are required to give reasons for their decisions. Regulation 68(3) lays down the procedure the Disciplinary Authority is required to follow after it receives the proceedings of the enquiry including the report of the Enquiry Officer. On careful perusal thereof we find that only in those cases where the Disciplinary Authority considers it necessary to direct fresh or further enquiry or disagrees with the findings of the Enquiry Officer, it has to record the reasons for its such directions, but there is no such obligation if it agrees with the findings of the Enquiry Officer. It can, therefore, be legitimately inferred that when express provisions have been made in the Regulations for recording reasons in only the first two of the three fact situations - and not the other - there is no implied obligation also to record the reasons in case of concurrence with the findings of the Enquiry Officer. Even if we proceed on the basis that such an obligation is implicit, still the order of the Disciplinary Authority cannot be held to be bad as, on perusal thereof, we find that before concurring with the findings of the Enquiry Officer it has gone through the entire proceeding and applied its mind thereto. In our considered opinion, when the Disciplinary Authority agrees with the findings of the Enquiry Officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to re-appraise the evidence to arrive at the same findings. We are, therefore, unable to accept the contention of Mr. Dutta that the order of punishment was liable to be struck down as it was a non-speaking order and did not contain any reason.

That brings us to the order of the Appellate Authority. Under Regulation 70(2), the Appellate Authority is required to consider whether the findings recorded against the concerned officer are justified and/or whether the penalty is excessive or inadequate and pass appropriate orders confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such directions as it deems fit in the circumstances of the case. This Regulation also does not obligate the Appellate Authority to give any reasons for its order. Assuming, that by necessary implication this Regulation also requires the Appellate Authority to give the reasons, still its order cannot be invalidated, as we find that it has discharged its obligation by considering the records and proceedings pertaining to the disciplinary action and the submissions made by Grover. In other words, the order clearly demonstrates that the Appellate Authority had applied its mind not only to the proceedings of the enquiry, but also the grounds raised by Grover in his appeal and on such application found that there was no substance in the appeal.

On the conclusions as above, we allow the appeal of the Bank and dismiss the Writ Petition filed by Grover in the High Court. Consequently, the appeal filed by Grover stands dismissed. However, there will be no order as to costs.