

Anil Gilurker vs Bilaspur Raipur Kshetria Gramin Bank ... on 15 September, 2011

Equivalent citations: 2011 AIR SCW 5327, 2011 (14) SCC 379, 2011 LAB. I. C. 4621, 2012 (1) AIR JHAR R 176, AIR 2012 SC (SUPP) 181, (2011) 3 CURLR 370, (2011) 5 SERVLR 737, (2011) 4 SCT 648, (2011) 131 FACLR 369, (2012) 1 MAD LJ 978, (2012) 1 JCR 9 (SC), (2011) 6 ALLMR 925 (SC), (2011) 3 SERVLJ 408, (2011) 6 ALL WC 5448, (2011) 10 SCALE 465, (2011) 4 LAB LN 449, (2011) 4 KER LT 64

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Bench: A. K. Patnaik, R. V. Raveendran

Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 7864-7865 OF 2011

(Arising out of S.L.P. (C) NOs.33088-33089 OF 2010)

Anil Gilurker

... Appellant

Versus

Bilaspur Raipur Kshetria Gramin Bank

& Anr.

... Respondents

O R D E R

A. K. PATNAIK, J.

Leave granted.

2. These are appeals against the order dated 28.04.2010 of the Division Bench of the Chhattisgarh High Court in Writ Appeal No.57 of 2010 and Writ Appeal No.82 of 2010.

3. The facts very briefly are that on 03.05.1984 the appellant was appointed as a Branch Manager in the Bilaspur Raipur Kshetriya Gramin Bank by way of direct recruitment and he successfully completed the period of probation. While he was working on the post of Branch Manager in Branch Patewa, he sanctioned and distributed loans to a large number of brick manufacturing units under the Integrated Gram Development Programme. The disciplinary authority placed the appellant under suspension and issued a charge-sheet dated 31.01.1989 against him for misconduct punishable under Regulation 30(1) of the Staff Service Regulations. In the charge-sheet, it was alleged that the appellant sanctioned and distributed loans to a large number of brick manufacturing units in a very short period of time, but had not in fact disbursed the entire loan amount to the borrowers and part of the loan amount was misappropriated by him.

The appellant was asked to submit his written defence in reply to the charges. On 11.02.1989, the appellant submitted his written defence denying the allegations made in the charge-sheet. An Inquiry Officer enquired into the charges against the appellant and submitted his report with a finding that the witnesses produced by the Bank had not said that what was actually advanced was less than the loan amount, and although there were some serious irregularities, the charge of financial corruption against the appellant had not been proved. The disciplinary authority in his order dated 10.09.1991 disagreed with the findings of the Inquiry Officer and held that the charge of financial corruption against the appellant had been proved and that the appellant had not only violated the Rules of the Bank, but had also tried to cause financial loss to the Bank and by abusing his position, had lowered down the reputation of the Bank. In the order dated 10.09.1991, the disciplinary authority proposed to impose the punishment of removal of the appellant along with forfeiture of the contribution of the Bank to the Provident Fund of the appellant under Section 50(1) of the Staff Regulations. By the order dated 10.09.1991, the disciplinary authority directed that a copy of the order and report of the Inquiry Officer be sent to the appellant to show-cause why he should not be punished as proposed. On 18.09.1991, the appellant submitted his reply to the show-cause notice and on 25.11.1991, the disciplinary authority passed the order of removal. Aggrieved, the appellant filed an appeal against the order of the disciplinary authority, but the appeal was dismissed by the appellate authority.

4. The appellant then filed a Writ Petition before the Madhya Pradesh High Court challenging the order of removal passed by the disciplinary authority. After the reorganization of the Madhya Pradesh in the year 2000, the Writ Petition was transferred to the Chhattisgarh High Court and was heard by a learned Single Judge of the Chhattisgarh High Court. The learned Single Judge in his judgment dated 22.02.2010 found that in the charge-sheet, there is no reference to any specific documents or to the names of the persons who had not been given the loan amounts and accordingly took the view that in the charge-sheet there were no specific charges. Relying on the

decisions of this Court in *Surath Chandra Chakrabarty v. State of West Bengal* [(1970) 3 SCC 548], *Sawai Singh v. State of Rajasthan* [(1986) 3 SCC 454] and *Union of India & Ors. v. Gyan Chand Chattar* [(2009) 12 SCC 78], the learned Single Judge held that when the charges levelled against the delinquent officer in the charge-sheet were vague and not specific and the entire enquiry is vitiated. The learned Single Judge quashed the orders of the disciplinary authority and the appellate authority and directed reinstatement of the appellant in service with continuity in service and without loss of seniority in the post to which he would be entitled to. The learned Single Judge further directed that the appellant will be entitled to compensation of Rs.1.5 lacs in lieu of arrears of his salary.

5. Aggrieved by the order of the learned Single Judge granting only Rs.1.5 lacs as compensation in lieu of arrears of salary, the appellant filed Writ Appeal No.57 of 2010 and aggrieved by the impugned order of learned Single Judge in the Writ Petition quashing the orders of the disciplinary authority and the appellate authority, the respondents filed Writ Appeal No.82 of 2010. After hearing the Writ Appeals, the Division Bench of the Chhattisgarh High Court held in the impugned order that the charges against the appellant as described in the charge-sheet were not vague as on the basis of documents mentioned in the charge-sheet, it has been alleged that the appellant had sanctioned the loans and had shown the loans only on paper but had not actually disbursed the loans to the borrowers.

The Division Bench of the High Court, however, held that as the disciplinary authority had disagreed with the findings in the inquiry report, he should have furnished his reasons for the disagreement to the appellant before passing the order of punishment. The Division Bench of the High Court further held that the disciplinary authority cannot conduct further enquiry suo motu to fill up the lacuna in the enquiry. The Division Bench of the High Court allowed both the appeals and directed that the disciplinary authority will consider the inquiry report, the evidence recorded by the Enquiry Officer and the documents relied upon in the charge-sheet and take a fresh decision in accordance with law. The Division Bench of the High Court further observed in the impugned order that if the disciplinary authority takes a view on reconsideration of the matter not to take any further action against the appellant, he shall be given all the consequential benefits along with reinstatement.

6. We have heard Mr. Ravindra Shrivastava, learned counsel for the appellant and Mr. Akshat Shrivastava, learned counsel for the respondents, and we are of the considered opinion that the Division Bench of the High Court was not correct in taking a view in the impugned order that the charges against the appellant were not vague. The English translation of the charges and the statement of imputations extracted from the charge-

sheet dated 31.01.1989 served on the appellant is reproduced hereinbelow:

Charge Sheet No. D/A/756 dated 31.1.89 Statement of imputations Charge While working as Branch Tempted with his malafide Manager in Branch Patwa, intention serious violation of in the first quarter of the the Rules and interests of the year 1988, have sanctioned Bank and Administration, in and distributed loan of brick a very short period of time manufacturing in large sanction the loan of Brick number under

the Integrated manufacturing in large scale Gram Development under the "I. Gram. Dev. Programme by committing Prog." And distributed and in unauthorized irregularities most of the loan cases, contrary to the rules and without actually distribution interest of the bank and of the entire loan amount, administration. In most of you have completed the these loan cases you have documentary proceedings, shown cash distribution of and showing the cash the entire loan and has given distribution of the entire loan only one minor part of the amount, only a minor share loan amount to the Borrower of the loan has been given in cash and from the balance cash to the concerned amount, some amount has borrower and from the been deposited in their remaining amount some saving accounts (deducting amount has been deposited contribution amount in the account of the equivalent to the amount for borrower and the balance closing the loan account) and amount in connivance with the remaining amount has other persons have been been grabbed by you, branch grabbed. With the intention employees and in collusions to cover up your this act, with the Gram Sewaks. After only after a few time of the a very little time adjusting loan distribution, you have the contribution amount in withdrawn the amount from these loan accounts, you the saving accounts of the have withdrawn the amount concerned borrowers and from the Saving Accounts of most of the accounts have the concerned borrowers, been closed before time. As you have closed most of the such for the fulfillment of loan accounts much before your personal gain you have the time fixed for the deliberately misused the repayment. position of your post and has committed financial corruption in large scale.

From which cause serious shock the interests of the bank administration and the borrower also, the reputation of the bank has also been lowered down. Your this act is a misconduct under Sections 17, 19 and 30(1) of the Employees Collection Service Regulations.

7. A plain reading of the charges and the statement of imputations reproduced above would show that only vague allegations were made against the appellant that he had sanctioned loans to a large number of brick manufacturing units by committing irregularities, but did not disburse the entire loan amount to the borrowers and while a portion of the loan amount was deposited in the account of the borrowers, the balance was misappropriated by him and others. The details of the loan accounts or the names of the borrowers have not been mentioned in the charges. The amounts of loan which were sanctioned and the amounts which were actually disbursed to the borrowers and the amounts alleged to have been misappropriated by the appellant have not been mentioned.

8. We also find that along with the charge-sheet dated 31.01.1989 no statement of imputations giving the particulars of the loan accounts or the names of the borrowers, the amounts of loans sanctioned, disbursed and misappropriated were furnished to the appellant, and yet the disciplinary authority has called upon the appellant to submit his written defence statement in reply to the charges. We fail to appreciate how the appellant could have submitted his written statement in defence in respect of the charges and how a fair enquiry could be held unless he was furnished with the particulars of the loan accounts or the names of the borrowers, the amounts of loan sanctioned,

the amounts actually disbursed and the amounts misappropriated were also furnished in the charge-sheet.

9. As has been held by this Court in *Surath Chandra Chakrabarty v. State of West Bengal* (supra):

"5.The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which it is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded he cannot possibly, by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him....."

10. This position of law has been reiterated in the recent case of *Union of India & Ors. v. Gyan Chand Chattar* (supra) and in Para 35 of the judgment as reported in the SCC, this Court has observed that the law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice and the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges.

11. We, therefore, allow these appeals, set aside the impugned order of the Division Bench and restore the order of the learned Single Judge. Considering the peculiar facts and circumstances, we delete the direction of the learned Single Judge to pay Rs.1.5 lacs to the appellant as compensation in lieu of arrears of salary and we are also not inclined to grant any backwages to the appellant. There shall be no order as to costs.

.....J. (R. V. Raveendran)J. (A. K. Patnaik) New Delhi, September 15, 2011.