



2024:GAU-AS:12615-DB

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

WRIT APPEAL No.74 OF 2022

1. The Chairman and Managing Director, UCO Bank Head Office, 10 B.T.M. Sarani Kolkata-700001
2. The General Manager, Personnel Service Department, 3 & 4 D.D. Block, Sector-1, Salt Lake, Kolkata-700064
3. The Deputy General Manager, UCO Bank, Circle Office, Maniram Dewan Road, P.O. Silpukhuri, Guwahati-781033
4. The Assistant General Manager, UCO Bank, Jorhat Zonal Office, T.R. Phukan Road, Jorhat-785001

.....Appellants

-Versus-

Sri Chandra Bhusan Kumar,
S/o- Late B.L. Das, Resident of
Shankar Nagar Gandhi Nagar,
Mangaldoi Town, District-Darrang,
PIN-784125.

.....Respondent

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Appellant(s) : Mr. M. Sharma, Advocate.

For the Respondent(s) : Mr. M.P. Sarma, Advocate.

Date of Judgment : **10.12.2024.**

JUDGMENT & ORDER (ORAL)

(Kaushik Goswami, J)

Heard Mr. M. Sharma, learned counsel for the appellants. Also heard Mr. M.P. Sarma, learned counsel appearing for the sole respondent.

2. This appeal is being presented against the judgment & order dated 21.01.2022 passed by the learned Single Judge in WP(C) No.5712/2016, whereby the impugned order dated 30.09.2015 issued by the Assistant General Manager, UCO Bank imposing penalty of reduction of basic pay by 4(four) stages in the time scale of pay was set aside.

3. The factual matrix of the case is that the sole respondent (writ petitioner before the learned Single Judge), while working as Assistant Manager in the Lead Bank Office, UCO Bank, Darrang, was issued with a show-cause notice dated 30.04.2014 by the appellant Bank (respondents before the learned Single Judge) seeking explanation as regard deposits made in his several bank accounts. The respondent/writ petitioner, in his reply to the above show-cause, explained the subject cash deposits

in his bank accounts. Pursuant to the reply furnished by the respondent/writ petitioner, the appellant Bank, vide communication dated 06.12.2014, issued the charge-sheet to the respondent/writ petitioner. Accordingly, an enquiry was held and the Enquiry Officer though found that Charge Nos.1 and 3 were not proved, however, found Charge No.2 to be proved. Thereafter, the Disciplinary Authority imposed the penalty of reduction of basic pay by 4(four) stages till retirement, with a further direction that the respondent/writ petitioner would not earn increments of pay during the period of reduction and after the expiry of the reduction period, such reduction would have the effect of postponing future increments of his pay.

4. Being aggrieved by the said penalty order, the respondent/writ petitioner filed the above mentioned writ petition, which was allowed by the learned Single Judge by setting aside the aforesaid penalty order. Hence, the instant appeal is preferred by the appellant Bank.

5. Mr. M. Sharma, learned counsel appearing for the appellant Bank submits that there being abnormal deposits of cash in the bank accounts of the respondent/writ petitioner, Charge No.2 was justified, and accordingly, the learned Single Judge erred in setting aside the penalty order issued by the Disciplinary Authorities.

6. Per contra, Mr. M.P. Sarma, learned counsel for the writ petitioner/respondent submits that the cash in question has been deposited in the bank account of the

writ petitioner/respondent, explanation of which has already been furnished before the Enquiry Officer, and there being no such bar of cash deposit in the personal bank accounts of the employees of the appellant Bank under the Rules & Regulations in force, the impugned penalty order is illegal and therefore, the judgment & order of the learned Single Judge under appeal warrants no interference from this Court.

7. We have given our prudent consideration to the arguments made by the learned counsel appearing for the contesting parties and have perused the material available on record, including the citations submitted at the bar.

8. The issue arising in this appeal is whether the learned Single Judge was justified in setting aside the order of penalty dated 30.09.2015 issued by the Disciplinary Authorities on the basis of Charge No.2 having been found to be proved against the respondent/writ petitioner.

9. Apt to refer to the charge-sheet, which shows that on the basis of 8(eight) allegations made against the respondent/writ petitioner, 3(three) articles of charges were framed which reads as hereunder:-

“1) Shri. Chandra Bhusan Kumar without the previous sanction of the Bank, engaged himself directly or indirectly in trade & business activity which is violative of Regulation 6 (1) of UCO Bank Office Employees' (Conduct) Regulations, 1976, as amended.

2) Shri Chandra Bhusan Kumar failed to discharge his duties with utmost integrity, honesty devotion and

diligence and do nothing which is unbecoming of a bank officer, which is violative of Regulation 3 (1) of UCO Bank Officer Employees' (Conduct) Regulations, 1976 as amended.

3) Shri Chandra Bhusan Kumar and his family members have resorted to borrowing, which is violative of Regulation 15 (1) of UCO Bank Officer Employees' (Conduct) Regulations, 1976 as amended."

10. It appears that the Enquiry Officer found the Charge Nos.1 and 3 not proved, however, found Charge No.2 proved. Apt also to refer to the 8(eight) allegations made against the respondent/writ petitioner and the finding of the Enquiry Officer against each allegations, which read as hereunder: -

"Allegation 1:

The facts in issue:

The CSO had deposited cash in his CC/OD A/c No: 14820500008889 amounting to Rs. 5057499/- on different date as per details mentioned in Annexure-1. As per Annexure-I there are total 105 entries.

In order to substantiate these allegation the PO examined and adduced evidences through his witnesses MW-I. It was come to the record of enquiry from the testimony and deposition & from the content of document (MEX-1) examined by PO through his witness MW-1 that cash deposits were in the statement of A/c of CC A/c No: 14820500008889 of CSO.(MEX-1 & MEX-6 to MEX-13). The Defence (DR) tried to defend allegation that subject credit deposits were from (i) Loan against deposits (ii) Financial assistance from his brother (iii) proceeds from LICI. These were his source of credit apart from his salary credited in the A/c. Nothing mentioned about cash deposit in the account.

Thus the ingredient of allegation 1 that cash deposit of Rs. 5057499/- on different date in his CC/OD/c No: 14820500008889 is Proved.

Allegation 2:

The facts in issue:

The CSO deposited cash amounting to Rs. 3.60 lacs in his SB A/c No; 14820100008342 in various dates between 1.10.2008 and 30.09.2012.

It has come to record of enquiry from the testimony, content of the documentary evidences (MEX-2) examined by PO through MW-1 that cash deposit entry dated 21.08.2009 for Rs.50000/-, 15.09.2009 for Rs. 50000/-, 03.10.2009 for Rs. 15000/-, 05.10.2009 for Rs.45000/- 07.10.2009 for Rs. 45000/-, 27.11.2010 for Rs. 20000/- were there.

DR while defending this allegation produce documentary evidences (DEX-4, DEX-6, DEX-9, DEX- 15, DEX-15 (a), DEX-15 (b), DEX-17, DEX-18, DEX-19 & DEX-23) to substantiate bonafide source of credit and stated that credits in the account does not substantiate the business activity. The CSO/DR failed to produce any evidence in connection with cash deposits of above mentioned date. Thus the allegation is proved.

During the above period an amount of Rs. 661000/- was also deposited in the SB A/C No: 14820100004863 maintained in the name of Mrs Binita Kumari W/o CSO, C.B.Kumar, but PO failed to produce any evidences to sustained the allegation before enquiry. Thus the allegation is not proved.

Allegation No. 3:

The facts in issue:

The CSO while working at Bordoloni Tiniali Branch cash was also deposited in CSO's A/c amounting to Rs.1550947/-

In order to substantiate the allegation PO again submitted the same documentary evidences (MEX-4 to MEX-7), which has already been submitted in Allegation No. 1.

The fact is that Allegation No.3 is repetition of Allegation No. 1.

Allegation No. 4:

The facts in issue:

Cash was also deposited by CSO for closure of his Loan Account No. 1362061003916, 14820610001851, 14820610001578 & 1482061001936.

PO once again failed to produce any evidences or explanation in connection with this allegation, as no record of enquiry and no testimony & no deposition, the allegation is not proved.

*Allegation No. 5:
The facts in issue:*

The CSO while working at Bordoloni Tiniali Branch has availed one Home loan with a limit of Rs.16.00 lac for purchase of Flat at Patna with total project cost of Rs. 25.00 lac. The margin money has been paid on 02.04.2013 & 06.04.2013 to the debit of CSO's OD A/c after receiving cash on the same date. EMTD was not created, certified copy of sale deed was on record & loan document were blank (means not filled up).

PO did not lead any evidences regarding ingredient of allegation. Hence the allegation is not proved.

*Allegation No. 6:
The facts in issue:*

All these above transactions did not match his known source of income. It has come to the record of Enquiry from the deposition and testimony through the contents of the documents examined through MW-1 (MEX-1 to MEX-13) and also keeping in record of the defence documents (DEX-1 to DEX-25) examined through DW-1. The defence failed to establish the known source of income of such cash deposits in A/c No. 14820500008059 & A/s No. 14820100008342. Thus the allegation is proved.

*Allegation No. 7:
The facts in issue:*

CSO while posted at Bordoloni Tiniali Branch he has deposited cash in other A/c of the customer namely Mr. Gauri Sankar Misra, M/s Zero Enterprises, M/s. High Tech, & Rupak Das (Annexure-III) besides the A/c of his wife Mrs Binita Kumari.

PO in his Brief mentioned Annex-III and highlights few transactions but failed to produce any evidence, who has deposited cash-in these accounts. No documentary evidences or proof submitted before enquiry to substantiate the allegation. Hence the allegation is not proved.

*Allegation No. 8:
The facts in issue:*

It is presumed from the above acts of CSO that without the previous sanction of the Bank, he engages himself in trade or business activity and indulges in some business relation with some constituents of the Bank/Branch or might have borrowed.

PO in his brief justifies the allegation and mentioned that CSO, Mr. C B Kumar & his family members were engaged in business or trading activity, but in order to substantiate or justifies the allegation, PO did not produce or lead any documentary evidences before enquiry. Thus the allegation is not proved.”

11. Thus, what appears to have been proved before the Enquiry Officer is the deposit of cash amounting to Rs.3.60 lakhs by the respondent/writ petitioner in his bank account and that the same did not match his known source of income. It appears that on the basis of such allegation having been proved, the Disciplinary Authority found Charge No.2, i.e. the respondent/writ petitioner failed to discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a Bank Officer which is violative of Regulation 3(1) of the UCO Bank Office Employees' Conduct (Regulations) 1976, (hereinafter to be referred as "1976 Regulations") to be proved. Apt at this juncture to refer to Regulation 3(1) of the said 1976 Regulations, which read as hereunder: -

"3.(1) Every officer employee shall, at all times take all possible steps to ensure and protect the interests of the bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a bank officer."

12. Reading of the aforesaid Regulation, it appears that it is imperative for every employee of the appellant Bank at all times to take all possible steps to ensure and protect the interest of the Bank and discharge his/her duties with utmost integrity, honesty, devotion and

diligence and do nothing which is unbecoming of a Bank Officer. It is inconceivable as how the respondent/writ petitioner by depositing cash in his bank account has acted against the interest of the Bank and or the same is unbecoming of a Bank Officer, especially when there is nothing to show that the respondent/writ petitioner has not discharged his duties with utmost integrity, honesty, devotion and diligence. It appears that the learned Single Judge has taken into consideration the aforesaid factors and has held that the finding of the Enquiry Officer to the effect that Charge No.2 was found to be proved against the respondent/writ petitioner is not justified. Paragraphs 14, 15, 16, 17 and 18 of the impugned judgment & order passed by the learned Single Judge are reproduced hereunder for ready reference: -

“14. In terms of the findings of the Enquiry Officer, based on his findings to the 8 (eight) allegations, Charge Nos. 1 & 3 were found to be not proved while Charge No. 2 was found to be proved.

15. Charge No. 2, which pertains to Regulation 3(1) of the 1976 Regulations, provides that an officer employee shall, at all times take all possible steps to ensure and protect the interests of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a bank officer.

16. In the present case, it is not disputed that the petitioner had deposited approximately Rs. 66 Lakhs into his Bank account. Further, the Enquiry Officer had come to a finding that the deposits made by the petitioner did not match his known source of income. On the other hand, the petitioner has given his explanation as to how the deposits were made. There is nothing to show that the petitioner did not ensure and protect the interest of the Bank or that he did not discharge his duties with

utmost integrity, honesty, devotion and diligence. The only thing that needs to be considered is as to whether the petitioner did something which was unbecoming of a bank officer.

In respect of allegation No. 6, i.e., that the petitioner's transaction did not match his known source of income, it was also the finding of the Enquiry Officer that the petitioner had failed to establish the known source of income of such deposits. It is in this context that the issue would have to be looked into.

17. *Though the petitioner's counsel has submitted that Charge No. 2 cannot be proved unilaterally without proving either Charge Nos. 1 or 3, on the ground that the Charge Nos. 1 to 3 are interconnected, a reading of Regulation No. 24 of the 1976 Regulations shows that a breach of each of the provisions of the 1976 Regulations is deemed to be a misconduct. Thus each regulation is independent of each other. Regulation No. 24 of the 1976 Regulations states as follows:-*

'24. A breach of any of the provisions of these regulations shall be deemed to constitute a misconduct punishable under the United Commercial Bank Officer Employees' (Discipline and Appeal) Regulations, 1976'

18. *The only issue to be decided is whether the petitioner is guilty with respect to Charge No. 2, which pertains to Regulation 3 (1) of the 1976 Regulations. A perusal of the above Regulation 3 (1) states that the employee is to take all possible steps to ensure and protect the interests of the bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a bank officer. As stated earlier, there is nothing to show that the petitioner did not ensure and/or protect the interests of the bank or that he did not discharge his duties with utmost integrity, honesty, devotion and diligence. The findings of the Enquiry Officer that the petitioner had failed to establish his known source of income and that it was beyond his known source of income, cannot in the view of this Court, come within the ambit of Regulation 3 (1) of the 1976 Regulations, especially when there is nothing to show that the petitioner has not ensured or protected the interest of the bank or did not discharge his duties as a bank officer utmost integrity, honesty, devotion and*

diligence and done anything which was unbecoming of a bank officer. The petitioner's explanation for the money deposits have not been considered at all by the Enquiry Officer/Disciplinary Authority, to have enabled them to come to any finding/decision. Keeping in view the facts and circumstances of the case, this Court finds that there cannot be a finding of misconduct against the petitioner in respect of Regulation 3 (1) of the 1976 Regulations as Regulation 3 (1) has to be considered in the light of whether the employee has been ensuring/ protecting the interest of the bank and discharging his duties in relation to the above. Accordingly, this Court is of the view that the finding of the Enquiry Officer/Disciplinary Authority to the effect that Charge No. 2 was found to be proved against the petitioner has led to manifest injustice."

13. Reading of the aforesaid findings of the learned Single Judge, we are of the unhesitant view that the aforesaid findings are reasonable, justifiable and there are no infirmities in the findings of the learned Single Judge. Therefore, the Writ Appeal fails.

14. Accordingly, the Writ Appeal stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant