



REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 66-67 OF 2020

(Arising out of S.L.P. (Civil) Nos. 36477-36478 of 2017)

CANARA BANK AND ORS.

... APPELLANTS

VERSUS

KAMESHWAR SINGH

... RESPONDENT

J U D G M E N T

S. ABDUL NAZEER, J.

1. Leave granted.
2. Canara Bank and its functionaries have filed these appeals challenging the judgment of the Division Bench of the High Court of Judicature at Patna in LPA Nos. 1430 of 2013 and 849 of 2013,

dated 14.07.2017, whereby the order of punishment passed against the respondent by the Appellate Authority, namely, the General Manager of the Bank, was quashed and the matter was remitted to the Disciplinary Authority, namely, the Deputy General Manager to proceed with the inquiry from the stage of receipt of the inquiry report and to conclude the proceedings in accordance with law.

3. The brief facts necessary for the disposal of these appeals are that the respondent was appointed on the post of Clerk with the Appellant-Bank in the year 1978 and was subsequently granted promotion under the relevant rules of the bank. On 08.08.2008 the respondent was posted and working as Scale I officer of the bank at its Swarajpuri, Gaya Branch. He was put under suspension with effect from 20.09.2008 in view of the order passed by the Deputy General Manager of the Bank in contemplation of a departmental proceedings. The respondent was served with a chargesheet dated 14.02.2009 containing articles of charges and statement of imputations to articles of charges. The respondent submitted his explanation on 10.03.2009 denying the allegation of misconduct and praying therein that the proceeding initiated against him may

be dropped and order of suspension passed against him may be recalled.

4. However, the Bank not being satisfied with the explanation furnished by the respondent, decided to proceed with the departmental proceeding initiated against him. One Shri L.N. Jha, the Senior Manager of the Bank was appointed as Inquiring Authority and one Shri S.K. Sinha, the Manager of the Bank was appointed as the Presenting Officer. A preliminary inquiry was held on 28.04.2009. Regular inquiry was commenced w.e.f. 18.05.2009. The respondent nominated one Shri B.K. Sinha as defence representative to participate in the departmental inquiry. He participated in the said inquiry and presented the defence of the respondent.

5. In the departmental inquiry, four persons were examined as management witnesses. One Deepak Kumar Singh was examined as defence witness. Apart from the oral testimonies of the witnesses, some material documents were also produced from both sides, which were marked as management exhibits and defence exhibits respectively.

6. On the basis of the materials on record, the Inquiring Officer submitted his report dated 02.07.2009 holding the respondent guilty of the charges. A copy of the inquiry report was forwarded to the respondent by letter dated 03.07.2009 issued under the signature of the Deputy General Manager and Disciplinary Authority. The respondent was called upon to file his representation or submissions on the findings arrived at by the Inquiring Authority. Accordingly, the respondent submitted his representation/submissions. Thereafter, an order dated 18.8.2009 was passed by the General Manager and Disciplinary Authority, whereby the punishment of compulsory retirement was inflicted upon the respondent in terms of Regulation 4(h) of the Canara Bank Officers and Employees (Discipline and Appeal) Regulations, 1976 (for short 'Discipline and Appeal Regulations, 1976'). The appeal preferred by the respondent was dismissed by the Appellate Authority on 22.03.2010.

7. The respondent challenged the said order by filing a writ petition before the High Court in Civil Writ Jurisdiction Case No. 10295 of 2010. During the pendency of this writ petition, review

application filed by the respondent was also rejected by the Chairman-cum-Reviewing Authority by order dated 30.07.2010. The Interlocutory Application filed by the respondent seeking amendment of the writ petition in order to assail the validity and correctness of the order passed by the Reviewing Authority was allowed by the High Court.

8. Learned Single Judge came to the conclusion that the General Manager of the Bank was justified in passing the order in view of Regulation 5(3) of the Discipline and Appeal Regulations, 1976. However, the learned Single Judge found that neither the Appellate Authority nor the Reviewing Authority have answered the grounds taken on behalf of the respondent in his appeal and review petition respectively. Therefore, the learned Single Judge remitted the matter, at the first instance, to the Appellate Authority for reconsideration of the matter as under:

“For the reasons recorded above, the matter requires reconsideration by the specified and authorized Appellate Authority as also the Reviewing Authority. They are under legal obligations to decide all the issues raised and grounds taken on behalf of the petitioner in his memo of appeal as also in review petition, which has not been done in the present case.

Since the matter is being remitted to the appellate authority, at the first instance, therefore, this Court is not inclined to decide other issues raised on behalf of the parties, which have been noted in the preceding paragraphs.”

9. The Bank has challenged this order in LPA No. 1430 of 2013 before the Division Bench. The respondent has also challenged the order of the learned Single Judge in LPA No. 849 of 2013. The Division Bench after considering the rival contentions of the parties, has set aside the order of the learned Single Judge and remitted the matter to the Deputy General Manager to proceed with the inquiry from the stage of receipt of the inquiry report and thereafter to conclude the proceeding in accordance with law.

10. We have heard learned counsel for the parties.

11. The Division Bench has interfered with the order of the learned Single Judge on the ground that the General Manager being an authority higher to Disciplinary Authority cannot exercise the power of the Disciplinary Authority. Therefore, the Division Bench quashed the order of punishment and remitted the matter to the

Disciplinary Authority, namely, the Deputy General Manager for fresh consideration in accordance with law.

12. Regulation 5 of the Discipline and Appeal Regulations, 1976, provides for the authority to institute disciplinary proceedings and impose penalties, which is reproduced below:

“5 Authority to institute disciplinary proceedings and impose penalties:

- (1) The Managing Director or any other authority empowered by him or by general or special order may institute or direct the Disciplinary Authority to institute disciplinary proceedings against an officer employee of the bank.
- (2) The Disciplinary Authority may himself institute disciplinary proceedings.
- (3) The Disciplinary Authority or any other authority higher than it, may impose any of the penalties specified in regulation 4 on any officer employee.”

(Emphasis supplied)

13. It is clear from the aforesaid Regulation 5(3) that the Disciplinary Authority or any other authority higher than it, may impose any penalties specified in Regulation 4 on any officer employee. In the instant case, the departmental proceedings against the respondent were initiated by the Deputy General

Manager being the Disciplinary Authority. But the order of punishment has been passed by the General Manager, who was higher than the Disciplinary Authority. Having regard to Regulation 5(3), the Division Bench was not justified in holding that General manager has no authority to pass the order of punishment.

14. In the result, the appeals succeed and are accordingly allowed. The order of the Division Bench impugned herein is set aside and the order of the learned Single Judge remitting the matter to the authorised Appellate Authority for reconsideration of the appeal is restored.

15. Parties to bear their respective costs.

.....**J.**
(S. ABDUL NAZEER)

.....**J.**
(SANJIV KHANNA)

New Delhi;
January 08, 2020.