REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4394 OF 2010

Boloram Bordoloi .....Appellant

Versus

Lakhimi Gaolia Bank & Ors. .....Respondents

J U D G M E N T

R. Subhash Reddy, J.

1. This civil appeal is filed by the appellant in Writ Appeal No.361 of 2008 on the file of Gauhati High Court, aggrieved by the order dated 03.04.2009. By the aforesaid order, the order dated 08.06.2007 passed by the learned Single Judge in Writ Petition No.219 of 2006 was confirmed. The learned Single Judge, while confirming the order of compulsory retirement in disciplinary proceedings initiated against the appellant, has held that withholding of service benefits as well as pensionary dues to

the appellant is illegal and issued directions to pay the retiral benefits.

2. The appellant was the Manager of the first respondent-bank. On the basis of certain allegations levelled against him, disciplinary proceedings were initiated and charge memo dated 18.06.2004 was issued. The substance of the charges is extracted in the order passed by the learned Single Judge. In view of the reply filed by him on 15.07.2004, denying the charges, the respondent-bank having not satisfied with the explanation, has decided to order departmental enquiry against the appellant. The Enquiry Officer, after completing the enquiry by appreciating the oral and documentary evidence on record, has held that all the charges, i.e. charge nos.1 to 5, framed against the appellant were proved. In view of the findings recorded by the Enquiry Officer, the respondent-bank has proposed to inflict the punishment of compulsory retirement on the appellant. Based on the findings recorded in the departmental enquiry, has passed order imposing the punishment of "compulsory retirement" from service. The

appellant was unsuccessful before the departmental appellate authority, i.e., Board of Directors of the Bank and the appellate authority has dismissed his appeal confirming the order of the disciplinary authority. Challenging the order of the disciplinary authority imposing the punishment of compulsory retirement, as confirmed by the appellate authority, the appellant approached the High Court by filing Writ Petition (C) No.219 of 2006 before the Gauhati High Court. The learned Single Judge vide detailed judgment and order dated 08.06.2007 has not interfered with the order of compulsory retirement but at the same time has found that withholding of the service benefits including pensionary dues was illegal and issued directions for payment of such benefits to the appellant. As against the order of the learned Single Judge, the appellant has preferred Writ Appeal No.361 of 2008. The Division Bench of the High Court, by the impugned order, has dismissed the same by confirming the order of the learned Single Judge.

3. We have heard Sri Parthiv Goswami, learned counsel for the appellant and Sri Rajesh Kumar, learned counsel appearing for the respondent-bank.

4. Learned counsel for the appellant has mainly contended that after completion of enquiry, even before furnishing a copy of enquiry report, the disciplinary authority has issued show cause notice dated 30.07.2005 vide Ref. No.LBG/I&V/PP&PA/154/08/2005-06 by indicating proposed punishment of compulsory retirement. It is submitted that such conclusion arrived at by the disciplinary authority even before the service of enquiry report, is illegal. To buttress his submission, the learned counsel has placed reliance on judgment of this Court in the case of **Managing Director, ECIL, Hyderabad & Ors.** v. **B. Karunakar & Ors.** (1993) 4 SCC 727 and the judgment of this Court in the case of **State Bank of India & Ors.** v. **Mohammad Badruddin** (2019) 16 SCC 69. Further submission of the learned counsel was that the disciplinary authority has not recorded any reasons in the order dated 29.08.2005 while imposing the punishment of compulsory

retirement and similarly the appellate authority has dismissed the appeal without recording reasons. Lastly, it is submitted by learned counsel that the punishment imposed is disproportionate to the gravity of charges, as such, prayed for setting aside the impugned orders.

5. On the other hand, Sri Rajesh Kumar, learned counsel appearing for the respondent-bank, by taking us to the charges framed against the appellant and the findings recorded by the Enquiry Officer, has submitted that the charges framed against the appellant are grave and serious and in view of the proved misconduct of the appellant who was working as a Manager in the bank, the order of compulsory retirement was passed by the disciplinary authority. It is submitted that having regard to charges framed against the appellant, punishment imposed cannot be said to be disproportionate. Further it is submitted that after enquiry is completed it is always open for the disciplinary authority to indicate the punishment in the show cause notice, by enclosing a copy of the Enquiry Report. It is submitted that the respondents have followed procedure

contemplated under the Rules and the procedure adopted is in conformity with the ratio laid down by this Court in the case of **Managing Director, ECIL, Hyderabad** (supra). It is submitted that having regard to facts of the case, the judgment in the case of **Mohammad Badruddin** (supra) has no application to support the case of the appellant.

6. Having heard the learned counsel for the parties, we have perused the impugned order, the order of the learned Single Judge and other material placed on record.

7. The appellant was working as a Manager of the respondent-bank. A perusal of the charges, which are held to be proved by the Enquiry Officer, reveal that he has sanctioned and disbursed loans without following the due procedure contemplated under law and also there are allegations of misappropriation, disbursing loans irregularly in some instances to (a) units without any shop/business; (b) more than one loan to members of same family etc. The Enquiry Officer, after considering oral and documentary evidence on record, has held that all the charges are proved. Based on the findings recorded

by Enquiry Officer, the disciplinary authority has tentatively decided to impose punishment of compulsory retirement. Disciplinary authority has issued show cause notice dated 30.07.2005 by enclosing a copy of the enquiry report. In response to the show cause notice, the appellant has submitted his comments vide letter dated 16.08.2005 indicating that due to work pressure some operational lapses have occurred. Further he has also pleaded that if the bank has sustained any loss due to his fault, he is ready to bear such loss from his own source. After filing the response to the show cause notice, order is passed by disciplinary authority imposing punishment of compulsory retirement. After Enquiry Officer records his findings, it is always open for the disciplinary authority to arrive at tentative conclusion of proposed punishment and it can indicate to the delinquent employee by enclosing a copy of the enquiry report. Though the learned counsel for the appellant has argued that even before tentative conclusion is arrived at by the disciplinary authority, the enquiry report has to be served upon him, but there is no such proposition laid down in the judgment of this

Court in the case of **Managing Director, ECIL, Hyderabad** (supra). In the aforesaid judgment of this Court it is held that delinquent employee is entitled to a copy of the enquiry report of the enquiry officer before the disciplinary authority takes a decision on the question of guilt of the delinquent. Merely because a show cause notice is issued by indicating the proposed punishment it cannot be said that disciplinary authority has taken a decision. A perusal of the show cause notice dated 30.07.2005 itself makes it clear that along with the show cause notice itself enquiry report was also enclosed. As such, it cannot be said that the procedure prescribed under the rules was not followed by respondent-bank. We are of the view that the judgment of this Court in the case of **Managing Director, ECIL, Hyderabad** (supra) is not helpful to the case of the appellant. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the Enquiry Officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further

elaborate reasons are required to be given by the disciplinary authority. As the departmental appeal was considered by the Board of Directors in the meeting held on 10.12.2005, the Board's decision is communicated vide order dated 21.12.2005 in Ref. No.LGB/I&V/Appeal/31/02/2005-06. In that view of the matter, we do not find any merit in the submission of the learned counsel for the appellant that orders impugned are devoid of reasons.

8. Even, the last submission of the learned counsel for the appellant that the punishment imposed is disproportionate to the gravity of charges, also cannot be accepted. The charges framed against the appellant in the departmental enquiry are serious and grave. If we look at the response, in his letter dated 16.08.2005, to the show cause notice issued by the disciplinary authority, it is clear that he has virtually admitted the charges, however, tried to explain that such lapses occurred due to work pressure. Further he went to the extent of saying – he is ready to bear the loss suffered by the bank on account of his lapses. The manager of a bank plays a vital role in managing the affairs of

the bank. A bank officer/employee deals with the public money. The nature of his work demands vigilance with the in-built requirement to act carefully. If an officer/employee of the bank is allowed to act beyond his authority, the discipline of the bank will disappear. When the procedural guidelines are issued for grant of loans, officers/employees are required to follow the same meticulously and any deviation will lead to erosion of public trust on the banks. If the manager of a bank indulges in such misconduct, which is evident from the charge memo dated 18.06.2004 and the findings of the enquiry officer, it indicates that such charges are grave and serious. Inspite of proved misconduct on such serious charges, disciplinary authority itself was liberal in imposing the punishment of compulsory retirement. In that view of the matter, it cannot be said that the punishment imposed in the disciplinary proceedings on the appellant, is disproportionate to the gravity of charges. As such, this submission of the learned counsel for the appellant also cannot be accepted.

9. For the aforesaid reasons, this appeal is devoid of merit, same is dismissed with no order as to costs.

.....J.
[Ashok Bhushan]

.....J.
[R. Subhash Reddy]

.....J.
[M.R. Shah]

New Delhi.
February 08, 2021