

A BILASPUR RAIPUR KSHETRIYA GRAMIN BANK AND ANR

v.

MADANLAL TANDON

(Civil Appeal No. 4467 of 2015)

B

MAY 15, 2015

[M. Y. EQBAL AND S. A. BOBDE, JJ.]

C *Service Law: Misconduct – Charge-sheet – Punishment – Removal from service – Plea of respondent-employee in writ petition that along with charge-sheet, neither the list of documents nor the documents sought to be relied upon were supplied – High Court quashed order of removal – Held: The records clearly showed that the documents which*  
D *were the basis of charges leveled against the respondent were not supplied to the respondent – High Court was right in holding that order of removal was not sustainable.*

**Dismissing the appeal, the Court**

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**HELD: 1. Indisputably, no documents were supplied to the respondent along with the charge-sheet on the basis of which charges were framed. Some of the documents were given during departmental inquiry, but relevant documents on the basis of which findings were recorded were not made available to the respondent. The list of documents and witnesses were also not supplied and some of the documents were produced during the course of inquiry. Admittedly, show cause notice was served along with 17 charges, but all the documents were not supplied to the respondent. The appellant was not able to demonstrate that the above documents were supplied to the respondent even during the course of inquiry. The High Court rightly came to the**  
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H **conclusion that the order of punishment cannot be**

**sustained in law. However, taking into consideration the fact that the respondent was out of employment since 1991, a lump sum payment of Rs.5,00,000/- towards the salary would meet the ends of justice. [Paras 9, 10] [90-D-H; 91-A-B]**

CIVILAPPELLATE JURISDICTION: Civil Appeal No. 4467 of 2015.

From the Judgment and Order dated 17.02.2012 of the High Court of Judicature at Chhatisgarh at Bilaspur in Writ Appeal No. 147 of 2010.

Akshat Shrivastava, Sarbajit Datta (For Manjeet Kirpal) for the Appellants.

T. V. S. Raghavendra Sreyas (For Nikhil Nayyar) for the Respondent.

The Judgment of the Court was delivered by

**M. Y. EQBAL, J. 1.** Leave granted.

2. This appeal by special leave is directed against the judgment and order dated 17<sup>th</sup> February, 2012, whereby Division Bench of the High Court of Chhattisgarh in the writ appeal preferred by the appellants upheld the order of the learned Single Judge and directed payment towards respondent's claim of salary up to Rs.5,00,000/- with all consequential benefits.

3. The factual matrix of the case is that the respondent was working as a Field Supervisor in the appellant Bank since 1981. In February, 1984, a charge-sheet was issued to him for having committed misconduct and after a departmental inquiry, an order dated 5.7.1984 was passed by the Disciplinary Authority imposing punishment of stoppage of his two annual

A increments. Thereafter a second charge-sheet was issued to  
the respondent in November, 1987 alleging that the respondent  
had committed several financial irregularities in various loan  
cases. An inquiry was conducted, wherein fourteen charges  
were found proved against the respondent and three charges  
B were not found proved. Consequently, the punishment of  
removal from service was inflicted against the respondent on  
1.10.1991. Respondent preferred an appeal before the Board  
of Directors of the appellant Bank, but the same was  
dismissed.

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4. The respondent, therefore, moved the High Court by  
way of writ petition, inter alia contending that both the charge-  
sheets being identical, the second inquiry was not competent.  
It was also contended that along with the second charge-sheet,  
D neither the list of documents nor the documents sought to be  
relied upon were supplied. It was also contended by the  
respondent-writ petitioner that appropriate opportunity was not  
afforded to him to have inspection of the relevant documents  
and as such the respondent was not in a position to reply the  
E said show cause notice effectively and to defend him in the  
inquiry. Learned Single Judge of the High Court rejected his  
first contention and held that the charges were not identical  
and, therefore, the second inquiry was competent. However,  
F it was held that along with the charge-sheet and imputation of  
charges, there was no list of documents and list of witnesses  
were also not supplied as such the respondent was not afforded  
an opportunity to put forward his case in response to show  
cause notice along with the charge-sheet. Observing that the  
G object of rules of natural justice is to ensure that a government  
servant is treated fairly in proceedings which may culminate in  
imposition of punishment including dismissal/removal from  
service, learned Single Judge of the High Court quashed the  
orders of removal passed by the appellant and allowed the  
H writ petition of the respondent with all consequential benefits.

5. Aggrieved by aforesaid decision, the appellants preferred writ appeal, wherein Division Bench of the High Court, after perusing the record, found that although the show cause notice was served along with 17 charges, but no documents were supplied along with the show cause to the respondent. Even the list of documents sought to be relied during the inquiry was not supplied along with the show cause. The Division Bench opined that it is trite law that when a delinquent employee is facing disciplinary proceeding, he is entitled to be afforded with a reasonable opportunity to meet the charges against him in an effective manner. If the copies of the documents are not supplied to the concerned employee, it would be difficult for him to prepare his defence and to cross-examine the witnesses and point out the inconsistencies with a view to show that the allegations are false or baseless.

6. The Division Bench of the High Court further observed that in the instant case neither the list of witnesses nor the list of documents was supplied to the respondent along with the charge-sheet. Though during the course of inquiry some documents were supplied to him but those documents, on which the reliance was placed by the Inquiry Officer for holding various charges proved, were not supplied to the respondent. The High Court further observed that the respondent is out of employment since 01.10.1991 and his claim for arrears of salary, as stated by counsel for both the parties, would be more than 45-50 lakhs. The Bank's money is public money and a huge amount cannot be paid to anyone for doing no work. The principle of "no work no pay" has been evolved in view of the public interest that an employee who does not discharge his duty is not entitled to arrears of salary at the cost of public exchequer. By way of impugned judgment, the High Court, therefore, concluded that in the facts and circumstances of the case a lump-sum payment of Rs. 5,00,000/- towards the claim of salary, would be just and proper in this matter. The

A respondent was also held to be entitled to all other consequential benefits.

7. Hence, the present appeal by special leave by the appellant Bank and its Board of Directors. It is worth to mention here that the respondent has not come to this Court against the impugned judgment passed by the High Court.

8. We have heard Mr. Akshat Shrivastava, learned counsel for the appellants and Mr. T.V.S. Raghavendra Sreyas, learned counsel for the respondent. We have also perused the impugned order passed by the Division Bench of the High Court. The only controversy that falls for our consideration is as to whether the documents, which were the basis of the charges leveled against the respondent, were supplied to the respondent or not?

9. Indisputably, no documents were supplied to the respondent along with the charge-sheet on the basis of which charges were framed. Some of the documents were given during departmental inquiry, but relevant documents on the basis of which findings were recorded were not made available to the respondent. It further appears that the list of documents and witnesses were also not supplied and some of the documents were produced during the course of inquiry.

10. Admittedly, show cause notice was served along with 17 charges, but all the documents were not supplied to the respondent. A perusal of the impugned order will show that when the Division Bench, during the course of arguments, asked the learned counsel appearing for the appellants whether documents viz. P-21, P-25, P-23, P-19, P-30, P-31 & P-32 were supplied to the respondent, on the basis of which various charges have been held to be proved, learned counsel was not able to demonstrate that the above documents were supplied to the respondent even during the course of inquiry.

The Division Bench then following a catena of decisions of this Court came to the conclusion that the order of punishment cannot be sustained in law. However, taking into consideration the fact that the respondent was out of employment since 1991, a lump sum payment of Rs.5,00,000/- towards the salary would meet the ends of justice. A B

11. After giving our anxious consideration, we do not find any reason to differ with the finding recorded by the learned Single Judge and also the Division Bench of the High Court in writ appeal. Therefore, this civil appeal is dismissed. C

Devika Gujral

Appeal dismissed.