

1 SCOB [2015] AD 26**APPELLATE DIVISION****PRESENT:**

Ms. Justice Nazmun Ara Sultana.
Mr. Justice Syed Mahmud Hossain.
Mr. Justice Hasan Foez Siddique.

CIVIL PETITION FOR LEAVE TO APPEAL
NO.1603 of 2013.

(From the judgment and order dated 26.02.2013 passed by the Administrative Appellate Tribunal, Dhaka in Appeal No.102 of 2009)

Janata Bank, : Petitioners.
represented by its
Managing Director and
another.

-Versus-

Md. Minhaj Uddin : Respondents.
Ahmed and another.

For the : Mr. M. Khaled Ahmed,
 Petitioners. Advocated, instructed by
 Mr. Syed Mahbubur
 Rahman, Advocate-on-
 Record.

For the : Mr. Nurul Islam Bhuiyan,
 Respondents. Advocate-on-Record.

Date of : The 18th June, 2015.
 Hearing.

The Administrative Appellate Tribunal came into a finding that while passing the impugned decision the Administrative Tribunal failed to consider that the departmental proceeding against respondent No.1 was not initiated and disposed of legally and that the Administrative Tribunal arrived at a wrong finding in disallowing the case causing serious miscarriage of justice. The findings arrived at and the decision made by the Administrative Appellate Tribunal having been based on proper appreciation of law and fact do not call for interference. **...(Para 13 & 14)**

JUDGMENT**SYED MAHMUD HOSSAIN, J.:**

1. This civil petition for leave to appeal is directed against the decision dated 26.02.2003 passed by the Administrative Appellate Tribunal, Dhaka in Appeal No.102 of 2009 allowing the appeal and setting aside the decision dated 20.01.2009 passed by the learned Member, Administrative Tribunal No.1, Dhaka in A. T. Case No.129 of 2009.

2. The facts, leading to the filing of this petition, in a nutshell, are as follows :

3. Respondent No.1, Md. Minhaj Uddin Ahmed, filed A. T. Case No.129 of 2006 under section 4(2) of the Administrative Tribunals Act, 1980 before the Administrative Tribunal, Dhaka, challenging the impugned order of dismissal from service dated 30.03.2006 passed by the authority.

4. The leave-petitioners herein contested the case by filing written objection denying all the material statements made in the application filed before the Administrative Tribunal.

5. The learned Member of the Administrative Tribunal No.1, Dhaka, by his decision dated 20.01.2009 dismissed the respondent's case.

6. Being aggrieved by and dissatisfied with the decision dated 20.01.2009 passed by the learned Member, Administrative Tribunal No.1, Dhaka, respondent No.1 preferred Appeal No.102 of 2009 before the

Administrative Appellate Tribunal, Dhaka. The Administrative Appellate Tribunal, upon hearing the parties, by its decision dated 26.02.2013 allowed the appeal setting aside the decision 20.01.2009 passed by the learned Member, Administrative Tribunal No.1, Dhaka.

7. Feeling aggrieved by and dissatisfied with the decision dated 26.02.2013 passed by the Administrative Appellate Tribunal, Dhaka, the leave petitioners have filed this instant civil petition for leave to appeal before this Division.

8. Mr. M. Khaled Ahmed, learned Advocate, appearing on behalf of the leave petitioners, submits that there was no irregularity in the departmental proceeding conducted by the Bank authority, which was conducted in accordance with law and that upon considering the inquiry report and other materials on record including the admission of respondent No.1, the Appellate Tribunal exceeded its jurisdiction and as such, the impugned decision should be set aside.

9. Mr. Nurul Islam Chowdhury, the learned Advocate-on-Record, appearing on behalf of respondent No.1, on the other hand, supports the impugned decision delivered by the Administrative Appellate Tribunal.

10. We have considered the submissions of the learned Advocates of both the sides perused the impugned decision and the materials on record.

11. The Administrative Appellate Tribunal came to the finding that instead of recording descriptive statement of the delinquent respondent No.1 at the time of holding departmental inquiry, the inquiry officer recorded his evidence in a given question and answer form and that as a result, respondent No.1 could not place his defence case before the investigating officer as he was bound to answer some selected questions which undoubtedly caused prejudice to him. The Administrative Appellate Tribunal noted that inquiry officer committed irregularities in conducting the departmental inquiry and that on receipt of such illegal inquiry report, the Bank authority took decision to punish respondent No.1 without lawful authority.

12. Having considered irregularities and illegality committed by the authority in punishing respondent No.1 on the basis of a perverse enquiry report submitted by the inquiry officer, the Administrative Appellate Tribunal was of the view that the imposition of penalty upon respondent No.1 was not only unjust but also unfair and without authority.

13. The Administrative Appellate Tribunal came into a finding that while passing the impugned decision the Administrative Tribunal failed to consider that the departmental proceeding against respondent No.1 was not initiated and disposed of legally and that the Administrative Tribunal arrived at a wrong finding in disallowing the case causing serious miscarriage of justice.

14. The findings arrived at and the decision made by the Administrative Appellate Tribunal having been based on proper appreciation of law and fact do not call for interference. Accordingly, this civil petition is dismissed.