

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1380 of 2020

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Ravi Ranjan, Son of Sri Maheswari Garaine, Resident of Mohalla- Alkapuri Colony, Bhagwanpur Chowk, P.S.- Bhagwanpur, District- Muzaffarpur PIN- 842001.

... .. Petitioner/s

Versus

1. Dakshin Bihar Gramin Bank having its head office at Sri Vishnu Commercial Complex NH30 New by pass near B.P. Highway Service Petrol Pump Asochak, Patna 800030, through its Chairman.
2. Chairman Dakshin Bihar Gramin Bank having its head office at Sri Vishnu Commercial Complex NH30 New by pass near B.P. Highway Service Petrol Pump Asochak, Patna 800030.
3. General Manager (D.A.C.) Head Office Dakshin Bihar Gramin Bank at Sri Vishnu Commercial Complex NH30 New by pass near B.P. Highway Service Petrol Pump Asochak, Patna 800030.

... .. Respondent/s

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Service Law—Dismissal—petitioner was served memo of charge; he submitted his show-cause—all charges were levelled against him without proving documents—departmental enquiry was proceeded without providing documents asked by the petitioner—disciplinary authority without affording an opportunity of being heard and without considering the defence of petitioner passed the order of dismissal—appellate authority also affirmed the order of punishment—only allegation against the petitioner found by the original authority as well as from the appellate authority that the petitioner has not followed his responsibility with honesty, and not protected the interest of the Bank in a proper manner—delinquent had demanded the documents to defend himself from the charges alleged; but those documents have not been provided instead Bank has provided only one document and taken a plea before this Court that no specific document was demanded by the petitioner, which is apparently wrong—order of punishment was set aside—petition allowed with liberty to Bank.

(Paras 15, 16)

2022 (2) PLJR (SC) 196—**Relied upon.**

2000 (3) PLJR 64—**Referred to.**

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Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Advocate Mr. Abhinay Raj, Advocate Mr. Alexander Ashok, Advocate Ms. Akansha Malviya, Advocate
For the Respondent/s	:	Mr. Mahesh Narayan Parbat, Sr. Advocate Mr. Praveen Prabhakar, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 01-02-2024

Heard Mr. D. K. Sinha, learned Sr. Counsel assisted by Mr. Abhinay Raj, Mr. Alexander Ashok and Ms Akansha Malviya, learned counsels for the petitioner, Mr. Mahesh Narayan Parbat, learned Sr. Counsel assisted by Mr. Praveen Prabhakar, learned counsel for the respondents - Dakshin Bihar Gramin Bank (hereinafter referred to as ‘the Bank’).

2. The present writ petition has been filed for quashing the punishment order dated 31.12.2018 (Annexure-11) and order dated 20.09.2019 (Annexure-12), passed by the



appellate authority affirming the order of dismissal dated 31.12.2018.

3. Learned Sr. Counsel for the petitioner submits that the petitioner was appointed on 22.09.2012 as Scale II officer in the Bank following due process and in the year 2013, particularly, on 27.07.2013, he was posted as Branch Manager, Lodipur, Bihar Sharif, Nalanda. Thereafter, on 16.05.2016, he was posted as Branch Manager main branch Bihar Sharif, Nalanda and, subsequently, on 31.05.2017, the petitioner was posted at the Regional Office, Bhabhua, Kaimur. The petitioner was served charge memo vide letter dated 29.03.2018 in which 33 different charges were levelled against him and in response to the said charge memo, the petitioner has submitted his show cause dated 07.04.2018. In addition to that, the petitioner was served one additional charge memo on 05.05.2018 also and thereafter vide order dated 22.05.2018, he was suspended.

4. Learned Sr. Counsel for the petitioner further submits that all the charges were levelled against the petitioner without providing documents. As such, the petitioner with a view to prove his innocence has demanded certain specific documents for the work he has done in the capacity of Branch Manager, Bihar Sharif vide letter dated 01.06.2018, but the



document was not provided to the petitioner. Again, vide letter dated 18.07.2018, he demanded the said documents with some additional documents, but those documents were also not provided to him and without providing those documents departmental enquiry proceeded. In the departmental proceeding, certain charges were proved certain charges were partially proved and two charges were disproved.

5. Learned Sr. Counsel for the petitioner further submits that in reply to the second show cause, the petitioner has submitted his reply and again raised the point of non-providing the documents to him. He further submits that the punishment order as annexed in Annexure-11 has been passed only due to non- providing of the documents of his defence, because the petitioner defended on the basis of available material only. The disciplinary authority without affording an opportunity of being heard and without considering the defence of the petitioner passed the order of dismissal, which is extracted as under :-

“उपर्युक्त observation/निष्कर्ष के आलोक में मैं यह भी पाता हूँ कि आरोपी अधिकारी के द्वारा बैंक की सेवा इमानदारी से एवं निष्ठापूर्वक नहीं करने, बैंक के हितों के प्रतिकूल कार्य कर बैंक हित को क्षतिग्रस्त करने और सेवा विनियम के 17,18,20,23 एवं 36 के **बिरुद्ध** आचरण करने का आरोप प्रमाणित है।”



6. Learned counsel for the petitioner further submits that he has challenged the said order of punishment before the appellate authority and the appellate authority has not at all considered this aspect of the matter, that just after the charge memo the petitioner has demanded the specific document for his defence, as well as also demanded the document in the show cause and passed order, affirming punishment.

7. Learned Sr. Counsel for the petitioner further submits that from the finding of the original authority as well as from the appellate authority, there are absolutely no allegation of any financial loss to the bank. The only allegation is that he has not followed his responsibility with honesty and also not protected the interest of the Bank in a proper manner. Learned Sr. Counsel for the petitioner has relied on a judgment rendered in the case of the *State of U.P. Vs. Rajit Singh* reported in *2022(2) PLJR SC 196* in which the Hon'ble Supreme Court has set aside the departmental proceeding on the ground of non-supply of the documents to the delinquent officer. The second judgment of which the petitioner relied on is rendered in the case of *Chandradeep Sinha Vs. the State of Bihar* reported in *2000(3) PLJR 64* in which this Hon'ble Court has set aside the disciplinary proceeding on the ground that the order



imposing punishment not disclosing application of mind neither defence of appellant considered nor reasons recorded for rejection of the plea set up by the appellant and he was directed to pass a reasoned order.

8. Learned Sr. Counsel for the Bank on the other hand vehemently opposes the case of the petitioner and submits that every rule prior to the passing of the final order has been followed. In support of his argument, counsel submits that the petitioner was initially appointed as Scale-II Officer on 22.09.2012. Subsequently, he was posted at different places. In the year, 2013, he was transferred to Bihar Sharif then Regional Office, Bhabhua at Kaimur and he was found involved in gross misconduct during his posting from 2013-2016 at Lodipur Bihar Sharif regional office, Bhabhua due to which chargesheet was issued with 33 charges on 29.03.2018 followed by a supplementary charge sheet dated 23.05.2018 containing one charge. In the said Charge Sheets, he was found involved in committing several serious irregularities and illegalities which were including serious violation of rules in sanction and disbursement of loans and various other irregularities, i.e., financing in utter violation of prescribed rules, instructions and norms of the bank reckless financing, the post of objectionable



words on Facebook, for absence from duty without leave, allowing the scanning of signature to unauthorized lady etc, are already described in the charge sheet and supplementary charge sheet. Upon submission of chargesheet, the petitioner filed his reply on 07.04.2018, but the same was not found satisfactory and thus a departmental enquiry was constituted against him vide order dated 13.04.2018 issued by the disciplinary Authority. Thereafter the petitioner was suspended on 22.05.2018. Original order challenged before the appellate authority who affirmed the punishment order.

9. Learned Sr. Counsel further submits that the petitioner has duly participated in the enquiry proceeding, relevant documents were marked Exhibits, and witnesses were also examined from both sides, in the presence of the delinquent officer and the presenting officer. On the conclusion of the enquiry, the enquiry officer submitted his enquiry report dated 21.09.2018 in which the enquiry officer found 25 charges as proved, 7 charges as partially proved, and 2 charge Nos. 3 and 6 as not found proved. Copy of enquiry report for submission of second show cause has been served upon him. The petitioner replied in response to the said letter on 31.10.2018 which was duly considered by the disciplinary authority and thereafter, the



final order was passed on 31.12.2018 (Annexure-11 to the writ petition) in which punishment from the dismissal of service against the petitioner and disqualification for his future employment and his suspension period would not be counted on duty and therefore he would not be entitled for any pay and any allowances except subsistence allowance which was paid to him during the course of his suspension period. The petitioner subsequently, challenged the same before the appellate authority and the appellate authority has also affirmed the said order.

10. Learned counsel for the Bank further submits that during his posting as Branch Manager, Lodipur, Bihar Sharif, Nalanda from 27.07.2013 to 15.05.2016 regarding reckless financing in utter violation of prescribed rules and in violation of his post which included sanction and disbursement of 332 loan accounts in just two months involving Rs.69,12,516.56 at stake and also fraudulent transaction of amount of Rs.3,10,143.41 in fake account. He further submits that it is due to these reasons and since the majority of the charges proved against him, he was punished.

11. In response to the petitioner's defence that the reply filed by the petitioner was not considered nor supply of documents has been made, the learned Sr. Counsel for the Bank



submits that in this regard, the stand of the Bank is that the petitioner did not submit details of the specific document even then the bank has provided the possible documents to the petitioner as well as at the time of the exhibit, all the documents were perused by the petitioner and Defence Representative which were duly recorded in the enquiry proceeding of both the dates and therefore, non-supply of those documents levelled in the different paragraph of the reply are false and baseless.

12. In response to the submissions made, learned Sr. Counsel for the petitioner submits that in paragraph no.14 of the reply to the counter affidavit filed on behalf of the petitioner specific denial has been made by the petitioner. He further submits that only a document has been provided to the petitioner to defend the charges which are not sufficient. It has been categorically denied in that said paragraph 14 that the petitioner did not submit details of the specific documents, rather as a matter of fact, the specific documents which have been demanded, is on record, as apparent from perusal page 12 of the Departmental Inquiry Book.

13. In the light of the submissions made and upon hearing the parties, this Court particularly upon perusal of observation of the original court and appellate court, it is crystal



clear that no financial loss has been caused to the Bank as mentioned in both original and appellate order. It is also apparent to this Court that a charge memo has been served to the petitioner on 29.03.2018 containing 33 charges with a supplementary charge memo dated 23.05.2018 and to defend upon the charge made, the petitioner has specifically demanded the specific documents from the enquiry officer on 01.06.2018 (Annexure-5 to the writ petition) in which demand of specific documents have been with a view to defend the charges. A reminder in this regard has also been issued on 18.07.2018 but it is not on the record that those specific documents demanded by the petitioner have been provided to him or not, rather the bank has responded that no specific document has been demanded by the petitioner which is absolutely wrong. It also transpires from the rejoinder to the counter affidavit, filed by the petitioner, that this denial has been made by the petitioner, that specific document was not demanded by him.

14. It is one of the fundamental points of the service jurisprudence that opportunity to defend must be granted to the delinquent on the charges alleged against him. Here in the present case, in view of the Court, the delinquent had demanded the documents to defend him from the charges alleged,



consistently, but those documents have not been provided instead the bank has provided, only one document and taken a plea before this Court by way of filing affidavit that no specific document was demanded by the petitioner, which is apparently wrong upon perusal of Annexure -3 as well as paragraph 14 of the rejoinder of the counter affidavit. In the light of the judgment of the Hon'ble Supreme Court rendered in the case of *the State of Uttar Pradesh and Ors. vs. Rajit Singh* reported in *2022(2) PLJR (SC) 196*, relevant paragraph 8 -10 is quoted as under :-

“(8.) It appears from the order passed by the Tribunal that the Tribunal also observed that the enquiry proceedings were against the principles of natural justice in as much as the documents mentioned in the charge sheet were not at all supplied to the delinquent officer. As per the settled proposition of law, in a case where it is found that the enquiry is not conducted properly and/or the same is in violation of the principles of natural justice, in that case, the Court cannot reinstate the employee as such and the matter is to be remanded to the Enquiry Officer/Disciplinary Authority to proceed further with the enquiry from the stage of violation of principles of natural justice is noticed and the enquiry has to be proceeded further after furnishing the



necessary documents mentioned in the charge sheet, which are alleged to have not been given to the delinquent officer in the instant case. In the case of Chairman, Life Insurance Corporation of India and Ors. Vs. A. Masilamani, (2013) 6 SCC 530, which was also pressed into service on behalf of the appellants before the High Court, it is observed in paragraph 16 as under:-

"16. It is a settled legal proposition, that once the court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same. (Vide ECIL v. B. Karunakar [(1993) 4 SCC 727], Hiran Mayee Bhattacharyya v. S.M. School for Girls [(2002) 10 SCC 293], U.P. State Spg. Co. Ltd. v. R.S. Pandey [(2005) 8 SCC 264] and Union of India v. Y.S. Sadhu [(2008) 12 SCC 30])."

(9.) From the impugned judgment and order passed by the High Court, it appears that when the aforesaid submission and the aforesaid decision was pressed into service, the High Court has not considered the same on the ground that the other officers involved in respect of the same incident are exonerated and/or no



action is taken against them. Applying the law laid down in the case of A. Masilamani (supra) to the facts of the case on hand, we are of the opinion that the Tribunal as well as the High Court ought to have remanded the matter to the Disciplinary Authority to conduct the enquiry from the stage it stood vitiated. Therefore, the order passed by the High Court in not allowing further proceedings from the stage it stood vitiated, i.e., after the issuance of the charge sheet, is unsustainable.

(10.) In view of the above discussion and for the reasons stated above, the findings recorded by the Tribunal as well as the High Court quashing and setting aside the order of punishment imposed by the Disciplinary Authority by applying the Doctrine of Equality is hereby quashed and set aside. However, as the enquiry is found to be vitiated and is found to be in violation of the principles of natural justice in as much as it is alleged that the relevant documents mentioned in the charge sheet were not supplied to the delinquent officer, we remand the matter to the Disciplinary Authority to conduct a fresh enquiry from the stage it stood vitiated, i.e., after the issuance of the charge sheet and to proceed further with the enquiry after furnishing all the necessary documents mentioned in the charge sheet and after following due principles of natural justice. The aforesaid exercise shall be completed within a period of six months from today.”



15. It transpires to this Court that the delinquent is entitled to the documents so that he may defend his charges. Here in the present case, this Court finds that there is lacking of the same and on this ground alone that there is a gross violation of natural justice in the departmental proceeding, this Court sets aside the punishment order dated 31.12.2018 (Annexure-11) and order dated 20.09.2019 (Annexure-12). The respondent – bank is at liberty to continue the departmental proceeding only after providing all the relevant documents demanded by the petitioner charged contained in Annexure-5 and shall conclude the proceeding within six months.

16. Accordingly, the present petition stands allowed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08/02/2024
Transmission Date	NA

