

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8217 of 2014

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Rabindra Nath Son of Late Krishna Deo Pandit, resident of A-9 Snehi Path, West Patel Nagar, P.O. and Police Station - Shastri Nagar, District - Patna.

.... Petitioner/s

Versus

1. The Chairman, Uttar Bihar Gramin Bank, Muzaffarpur
2. The General Manager, Uttar Bihar Gramin Bank, Muzaffarpur.
3. The Regional Manager, Uttar Bihar Gramin Bank, Siwan.
4. The Regional Manager, Uttar Bihar Gramin Bank, Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s :M/s Bindhyachal Singh and Ram Binod Singh, Advs.

For the Respondent/s : Mr. Prabhakar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-01-2015

Heard learned counsel for the petitioner and learned counsel for the Uttar Bihar Gramin Bank.

In this case, the petitioner is challenging the enquiry report dated 31st December 2012, the order of punishment dated 23rd February 2013 passed by the Chairman of the North Bihar Gramin Bank and the order of appeal dated 4th March 2014 passed by the Board of Director of the Bank and he has also challenged the order dated 7th December 2013 by which the show cause has been issued for forfeiture of gratuity amount.

In course of argument, the petitioner has confined his argument with regard to the illegality in the order of punishment. On receipt of the second show cause along with the enquiry report the



petitioner has filed a detail show cause, raising number of points for due consideration and he has submitted that the Disciplinary Authority while passing the order of punishment, did not consider any of the defence that he has taken in his second show cause. It was duty of the Disciplinary Authority to assign the reason and discuss the point that has been raised by the petitioner in his second show cause.

The order of punishment which has been recorded in nine pages (Annexure-24 to the writ application) does not disclose that the Disciplinary Authority has considered the point raised by the petitioner merely has stated that he agreed with the view of the Enquiry Officer and found the charge proved.

The counsel for the Bank has tried to justify the action of the Disciplinary Authority has submitted that there was no need to pass an elaborate order while concurring with the findings of the Enquiry Officer. Had there been a disagreement with the finding of Enquiry Officer then in that circumstance, the Disciplinary Authority was required to give its reason. In case of concurrence, there is no need to give a separate finding apart from the finding of Enquiry Officer.

Having considered the rival contentions of the parties, even if the Disciplinary Authority agrees with the finding of the Enquiry Officer, he was required to deal with the defence that has

been taken by the petitioner in the show cause.

In course of the argument, the counsel for the petitioner has submitted that certain documents, which are vital, were not supplied to the petitioner and some documents have illegally been taken into consideration by the Enquiry Officer has been pointed out in his explanation.

This Court is not giving any opinion on the merit of the case but only finds that the Disciplinary Authority has only discussed the finding of the Enquiry Officer and also mentioned the exhibits, abruptly arrived to a conclusion that charges have been found proved against petitioner without discussing any defence taken by the petitioner.

The Hon'ble Supreme Court in the case of *Chairman & Managing Director, United Commercial Bank v. P.C. Kakkar (2003) 4 SCC 364* has held that the reason is a part of the judicial making process, as the reason is living link between the judgment/decision and the decision maker that also gives an opportunity to the higher authority to decipher the mind of the decision maker. In absence of the reason, it is very difficult for a higher authority to examine what was going on in the mind of the lower authority while passing the order.

In such view of the matter, the order of punishment dated

23rd February 2013 (Annexure-24), the order passed by the Appellate Authority dated 4th March 2014 (Annexure-26), and the order dated 7th December 2013 (Annexure-27), are hereby quashed and the matter is remanded back to the Disciplinary Authority to consider the defence taken by the petitioner and pass the order in accordance with law.

This Court is not giving any opinion on the merit of the case. Any payment will be made subject to the order passed by the Disciplinary Authority.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

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