

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.290 of 1999

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Jagdish Ram, Son of Shri Thakkan Ram, resident of Village-Kanhauli, P.S.-
Manigachhi, District-Darbhanga.

.... **Petitioner/s**

Versus

1. The Regional Manager, Central Bank of India, Regional Office, Purnia.
2. Shri R.S. Tiwari, Disciplinary Authority, Central Bank of India, Purnia, Regional Officer at & Post-Purnia, District-Purnia.
3. The Zonal Manager, Central Bank of India, Patna Zonal Office, Block-B, 2nd Floor, Mourya Lok Complex, Dak-Bungalow Road, Patna-800 001.
4. Shri V.K. Raheja, Assistant General Manager-cum-Appellate Authority, Central Bank of India, Patna Zonal Office, Block-B, 2nd Floor, Mourya Lok Complex, Dak-Bungalow Road, Patna-800 001.
5. The Assistant Regional Manager, Regional Office, Central Bank of India, District-Purnia.

.... **Respondent/s**

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Appearance :

For the Petitioner/s : Mr. Farooque Ahmad Khan, Advocate
Md. Sufiyan, Advocate
Mr. Thakur Brajesh Singh, Advocate

For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 17-04-2015

Heard the parties.

2. This is an application seeking quashing of the order
dated 03.05.1995 passed by respondent no. 2, the



Disciplinary Authority, whereby, punishment of dismissal from service has been imposed upon the petitioner on the charge that at the time of his appointment in the respondent-Central Bank of India (**hereinafter referred to as the 'Bank'**), he had submitted Transfer Certificate, issued by the school, which was found to be forged. The petitioner had preferred an appeal against the said order dated 03.05.1995, which also came to be dismissed by an order dated 18.04.1998 by the Appellate Authority. The order dated 18.04.1998 is also under challenge in the present writ application.

3. Certain facts are not in dispute. The petitioner was appointed as Sub-Staff (Safai Karmachari) on 18.02.1992 in the Central Bank of India. It appears that soon after his appointment, it transpired in course of verification of School Leaving Certificate/educational certificate that the petitioner had submitted forged certificate. An internal enquiry appears to have been made by the Bank and, subsequently, by memo dated 28.08.1992, he was asked to submit a written explanation within seven days in view of the report that he knowingly made false statement with respect to the documents pertaining to educational certificates for employment in the Bank. The petitioner submitted his



explanation on 11.09.1992 in response to the said memo dated 28.08.1992 stating therein that at the time of his appointment in the Bank, he had lost his School Leaving Certificate and, therefore, he had got another certificate issued from the school, which was submitted by him in the Regional Office of the Bank. He also explained that after the issuance of subsequent certificate, issued by the school, he recovered the original certificate issued in his favour, which he had submitted in the Bank on 14.07.1992. He, thus, tried to explain the genuineness of the School Leaving Certificate/Transfer Certificate, submitted by him in the Bank. The explanation, so submitted, was not found satisfactory by the Disciplinary Authority, who decided to initiate a disciplinary proceeding against the petitioner.

4. A chargesheet was, accordingly, served upon the petitioner on 08.10.1992. The Enquiry Officer was appointed, who submitted his report on 20.04.1993, holding that the charge levelled against the petitioner could not be proved on the basis of the evidence collected and adduced in course of the departmental enquiry. It appears that the Disciplinary Authority did not agree with the findings of the Enquiry Officer and through a letter dated 02.11.1993, the



Disciplinary Authority in his tentative notes of disagreement over the findings of the Enquiry Officer, recorded that the charge on the basis of evidence available on the records of the disciplinary proceeding stood proved. He proposed imposition of punishment of dismissal from service. The Disciplinary Authority asked the petitioner to make his submissions in this regard by 18.11.1993 failing which; it would be presumed that he had no submissions to make against the proportionate punishment. The petitioner appears to have replied to the said communication dated 02.11.1993. By memo dated 20.11.1993, the Disciplinary Authority imposed upon the petitioner the punishment of dismissal from service after considering his written statement dated 18.11.1993, which has been submitted in response to the tentative notes of disagreement recorded by the Disciplinary Authority. The petitioner, aggrieved by the said order dated 20.11.1993, had approached this Court by filing C.W.J.C. No. 723 of 1994 and assailed it on the ground that copy of the enquiry report was not supplied to him before the Disciplinary Authority, imposed upon him the punishment of dismissal from service. This Court vide an order dated 06.02.1995 allowed the writ application and

quashed the order of dismissal dated 20.11.1993 with a direction to the Disciplinary Authority to apply his mind afresh upon the enquiry report after serving a copy of the said report on the petitioner.

5. In compliance of the order of this Court dated 06.02.1995, the Disciplinary Authority, through Letter No. DAW/158 dated 01.03.1995, sent a copy of the enquiry report to the petitioner asking him to submit his representation, if any. It was indicated in the said letter dated 01.03.1995 that if no representation or submissions were received within the said stipulated period of fifteen days, the Disciplinary Authority shall proceed with the matter on the basis of the finding of the Enquiry Officer and other relevant documents. It appears from Annexure-A to the counter affidavit filed on behalf of the respondents-Bank that the petitioner did submit his response after a copy of the enquiry report was served upon him, through letter dated 01.03.1995. The Disciplinary Authority this time, again on the basis of the records of the departmental enquiry as well as submissions made by the petitioner in his reply, came to the conclusion, in his findings, recorded on 23.03.1995, that the charge against the petitioner of having submitted forged



Transfer Certificate stood proved. Through letter dated 23.03.1995 (Annexure-A to the counter affidavit), the petitioner was again asked to submit his representation or make his comments on the findings arrived at by the Disciplinary Authority as regards, proof of the charge levelled against him. A letter dated 15.04.1995 has been brought on the record by way of Annexure-B to the counter affidavit, issued by the Disciplinary Authority which discloses that the petitioner did not respond to the notice issued upon him through letter dated 23.03.1995, whereby, he was asked to submit his representation on the findings arrived at by the Disciplinary Authority. The Disciplinary Authority by said letter dated 15.04.1995 (Annexure-B), considering the gravity of the charge levelled against the petitioner proposed to impose punishment of dismissal from service upon him. The petitioner was again asked to submit his representation upon the said proposed punishment. The petitioner did not submit any representation against the proposed punishment. The Disciplinary Authority, accordingly, vide an order dated 03.05.1995, imposed upon the petitioner the punishment of “Dismissal From Service Without Notice”, which has been brought on the record by



way of Annexure-1/1 to the writ application and is under challenge. From the order dated 03.05.1995, it appears that though the petitioner did not submit his representation upon the notice containing proposed punishment, he had appeared before the Disciplinary Authority on 03.05.1995 for personal hearing and had submitted a written statement. The Disciplinary Authority, after considering the records of the departmental enquiry and the written statement, so submitted by the petitioner on 03.05.1995, imposed upon the petitioner by the said order dated 03.05.1995, the punishment of dismissal.

6. The petitioner again approached this Court by filing C.W.J.C. No. 8687 of 1996. Since the petitioner had alternative remedy of preferring an appeal against the order of dismissal dated 03.05.1995, the said C.W.J.C. No. 8687 of 1996 was disposed of by an order of this Court dated 05.01.1998 with an observation that if the petitioner preferred an appeal against the said order, the Appellate Authority shall consider and dispose it of within a period of three months. The petitioner, accordingly, preferred appeal before the Appellate Authority. The Appellate Authority, however, dismissed the petitioner's appeal vide order dated

18.04.1998. These are the facts and circumstances under which the present writ application has been filed, seeking quashing of the orders of the Disciplinary Authority as well as Appellate Authority.

7. Learned counsel appearing on behalf of the petitioner has submitted that the Disciplinary Authority as well as the Appellate Authority had failed to appreciate the actual state of affairs and failed to evaluate the subsequent certificate, which was submitted by the petitioner to the Bank in support of the fact that he was genuine student of Rajyakrit Samaj Uchya Vidhyalaya, Ghonghor (Madhubani) issued on 25.11.1992. He has submitted that the petitioner, being semi-literate, having been appointed as Sub-Staff (Safai Karmachari) in the Bank could not distinguish the entries made in the subsequent certificate issued by the school with the earlier one which was issued in his favour. He submits that since the petitioner had lost the School Leaving Certificate, he had applied for another one upon which another certificate was issued which he had submitted for the purpose of his appointment in the Bank and after having recovered the previous certificate, he had submitted it to the Bank. He has submitted that it was merely out of



ignorance on the part of the petitioner that he had failed to distinguish between entries made in two certificates that these developments took place. Learned counsel for the petitioner has submitted that there cannot be any dispute about the fact that the petitioner was student of the said school. He fulfilled the minimum eligibility criteria in terms of educational qualification for his appointment as Sub-Staff in the Bank.

8. Learned counsel appearing on behalf of the Bank, on the other hand, while resisting the relief as prayed for in the writ application, has submitted that there has been due application of mind by the Disciplinary Authority as well as Appellate Authority while evaluating the evidence on record of the departmental enquiry. He has submitted, referring to the tentative notes of disagreement recorded by the Disciplinary Authority, that upon due appreciation of evidence the Disciplinary Authority came to a finding that the charge against the petitioner stood proved. He has submitted that the findings arrived at by the Disciplinary Authority cannot be said to be suffering from perversity or non-application of mind. Referring to the order of the Appellate Authority, learned counsel has submitted that he



passed a detailed order, rejecting the petitioner's appeal on due application of mind after considering at desirable length the tentative notes of disagreement and findings of the Disciplinary Authority and the order of the Disciplinary Authority imposing punishment of dismissal from service as well as petitioner's memo of appeal. He, accordingly, submits that there being no procedural lapse in holding the departmental enquiry, there is limited rather no scope, in the facts and circumstances of the case of judicial review in exercise of jurisdiction under Article 226 of the Constitution of India by the High Court. He has submitted that upon appreciation of evidence, the authorities of the Bank came to a finding that the certificate, which the petitioner had submitted at the time of his appointment, was forged one. Such finding is based on appreciation of evidence adduced in course of departmental enquiry.

9. From the rival pleadings and submissions made on behalf of the parties, I find that there has been no procedural lapse in course of the departmental enquiry inasmuch as the petitioner was given sufficient opportunity to deal with the tentative notes of disagreement recorded by the Disciplinary Authority against the findings of the Enquiry Officer. He



was given an opportunity to deal with the tentative findings of the Disciplinary Authority. He was issued second show cause notice by the Disciplinary Authority before imposing punishment of dismissal from service upon him and was given the opportunity of personal hearing too. From the order of the Appellate Authority, it appears that there has been consideration on the merits of the case and on the points raised by the petitioner in his memo of appeal. Learned counsel for the Bank appears to be correct in his submission that the correctness of the findings arrived at by the Disciplinary Authority or the Appellate Authority may not be gone in the present proceeding under Article 226 of the Constitution of India, there being no scope of any argument that such findings are perverse based on no evidence or based on irrelevant materials.

10. However, taking into account the social status of the petitioner and the circumstance under which he faced the disciplinary action for seeking appointment for the post of Sub-Staff (Safai Karmachari) in the Bank, I am of the view that the Disciplinary Authority should re-consider the quantum of punishment. The Court gives the Disciplinary Authority a free hand but, at the same time, observes that he



must consider as to whether the sympathetic approach is required in the matter of imposition of punishment and as to whether any alternative punishment can be imposed upon him. Learned counsel appearing on behalf of the petitioner agrees that if any other alternative punishment is imposed upon the petitioner other than order of dismissal from service, which results into his reinstatement upon reconsideration by the Disciplinary Authority, in terms of the observations made by this Court, he will not be claiming any salary/allowance/benefits for period during which he remained out of service. The Court expects that the Disciplinary Authority upon reconsideration in terms of the observations of this Court, should come to a final decision within a period of three months from the date of receipt/production of a copy of this judgment.

11. This application is, accordingly, dismissed but with the observations as above.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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