IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11989 of 1998

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Narayan Jha, son of late Sri Anirudh Jha resident of Kamalnagar Colony, P.S. Mojahidpur, District Bhagalpur

.... Petitioner/s

Versus

1. Uco Bank through Chairman and Managing Director Head Office 10, Brabarne Road, Calcutta (W.B.).
2. Chairman and Managing Director, UCO Bank,10, Brzborne Road, Calcutta (W.B.)
3. The General Manager (Operation) Eastern Region, UCO Bank, Head Office. India Exchange Place 4^{th} Floor, Culcutta.
4. Zonal Manager, UCO Bank, Zonal Office, Mauryalok Complex "4^{th} Floor" New Dak Bungla Chowk, Patna
5. Deputy General Manager, UCO Bank, Zonal Office, Patna 4^{th} Floor A Blck Mauryalok Dak Bunglow Chowk, Patna
6. Branch Manager, UCO Bank, Lodipur Branch, Lodipur Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra
Mr. Nurul Hoda

For the Respondent/s : Mr. R.P.Birnaway
Mr. Anand Sharan

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

7 20-03-2015

1. Heard learned counsel for the petitioner and learned counsel representing the respondent UCO Bank.

2. Petitioner seeks quashing of the order dated 23.4.1998 issued by the Deputy General Manager (Disciplinary Authority), UCO Bank, Zonal Office, Patna whereby, punishment of dismissal has been imposed upon the petitioner for each charge levelled against him.

3. The petitioner at the relevant point of time was

functioning as Assistant Manager (Cash), UCO Bank, Lodipur, Bhagalpur. A departmental proceeding was initiated against him with the issuance and service of charge-sheet through letter dated 15.3.1995 by the disciplinary authority. Following were the articles of charges and statement of allegations:-

"ARTICLES OF CHARGE

Sri Narayan Jha (PFM, 28007) while functioning as Assistant Manager at Lodipur branch from 22.7.1991 to 11.10.1994 had indulged in several acts of omission and commission for which he is hereby charged as under:-

Shri Jha fraudulently paid an amount of Rs. 60000/- (Rs. Sixty thousand only) and Rs. 3900/- (Rs. Thirtynine thousand only) on 23.9.1994 and 16.8.1994 respectively and also concealed the fraudulent payment by making wrong entries in cash book and also made deliberate casting mistakes therein, in order to fraudulently tally the books of the branch. Sri Jha has thus failed to discharge his duties with utmost integrity, honesty, devotion and diligence which is violative of Regulation 3 of UCO Bank Officer Employees (conduct) Regulations, 1976, as amended."

STATEMENT OF ALLEGATIONS

Sri Narayan Jha (PFM. 28007) Asst. Manager cash (Placed under suspension) while posted at Lodipur branch from 22.7.1991 to 11.10.1994 had indulged in various acts of omission and Commission in the course of his duties which are enumerated as under:-

1. a) While acting as Manager on 23.5.1994 Sri Jha fraudulently and irregularly made cash payment of Rs. 60000/- (Rs. Sixty thousand only) to the debit of Interest Accrued & payable Account. He himself entered the subject voucher in took book register and made payment after entering ind the cash payment register.

b) And in order to conceal aforesaid fraudulent transaction Sri Jha entered the said entry in the cash Book mentioning therein an amount of Rs. 6000/- instead of Rs. 60000/-. Further Sri Jha made a wrong total in the Debit side of cash column of cash Book in order to tally the figure of cash payment as shown in the cash Book with that of the figure appearing in cash payment Book, Cashier Summary Book,. Further Sri Jha posted the said entry in General Ledger under Intt., Accrued and payable Head as Rs. 6000/- only and he deliberately reduced the balance by 60000/- in stead of Rs. 6000/-, in order to fraudulently tally GLB on 23.5.1994 and also destroyed the said payment voucher for Rs. 60000/-.

2 a) On 16.8.1994, Sri Jha fraudulently made payment of Rs. 39000/- (Rs. Thirty nine thousand only) to the debit of interest accrued and payable account. He himself issued the token no. 8596 and entered in token Book but tempered the figure of Rs. 39000/- to only 9000/- and entered Rs. 9000/- in cash payment Book mentioning therein as FDR/A/C., after making cash payment of Rs. 39000/-.

b) Sri Jha deliberately made a wrong total in both token book and cash payment Book and intentionally enhanced the total by Rs. 30000/- (Rs. Thirty thousand only) in the said books. Sri Jha also wrote the total amount of payment in words in cash Payment Book.

c) In order to conceal the aforesaid fraudulent transactions Sri Jha made the said entry in cash Book mentioning therein an amount of Rs. 9000/- (Rs. Nine thousand only) but while tallying the cash paid out in cash Book I n hand on 16.8.1994, Sri Jha deliberately enhanced the total by Rs. 30000/. Further Sri Jha posted the said entry in General Ledger under interest accrued & payable head and he deliberately reduced, the balance by Rs. 39000/- instead of Rs. 9000/- in order to fraudulently tally G.L.B on 16.8.1994 and also destroyed the said payment voucher for Rs. 39000/-.

Thus Sri Jha displayed indifference towards Bank's interest an acted solely with intent to cause wrongful loss to Bank."

4. The petitioner submitted his written statement of defence. The petitioner was supplied document on the basis of which the Bank intended to prove the charge in the departmental proceeding. The enquiry was held on different dates. The petitioner was given the opportunity to peruse the document relevant for the purpose of establishing the charge. The proceeding of the domestic enquiry before the enquiry Officer dated 24.9.1996 has been brought on record by way of Annexure-23 of the writ application. From the said Annexure, it appears that

though the petitioner denied charge No. 1(a) and 1(b) taking a plea that interpolation was done by someone else, it appears, however, from the said proceeding that he accepted the charges No. 2(a), 2(b) and 2(c) of the statement of allegation. He disputed the allegation only to the extent that he did not destroy the payment voucher for Rs. 39,000/-. The Inquiry Officer after considering the evidence, both oral and documentary found all the charges levelled against the petitioner to have been proved, in his enquiry report dated 22.1.1997. The petitioner was given an opportunity to make his comments upon the report of the Inquiry Officer which he availed and he submitted his comments on 13.2.1997 before the Disciplinary Authority. The Disciplinary Authority concurred with the findings of the Inquiry Officer and considering the evidence available on record of the departmental enquiry held the petitioner guilty of the charges levelled against him and accordingly, in exercise of the powers conferred upon him as Disciplinary Authority under the UCO Bank Officers Employees (Discipline and Appeal) Regulations, 1996 imposed punishment of dismissal for each charge separately, which stood proved against him. The punishment took immediately concurrent effect as per order of the Disciplinary Authority. The petitioner thereafter, submitted his statutory appeal before Appellate Authority i.e. General Manager (Operation), Eastern Region, UCO Bank, Head Office, Calcutta. The said appeal came to be dismissed by an order dated 21.1. 1999 passed by the General Manager (Operation-II) which has been brought on record by way of Annexure-31 to an Interlocutory Application being I. A. No. 4396 of 1999 seeking amendment in the writ application for the purpose of challenging the Appellate Order. I.A. No. 4396 of 1999 came to be allowed by an order dated 7.4.1999 passed by this Court.

5. Challenging the legality of the impugned order of dismissal, learned counsel appearing on behalf of the petitioner has submitted that the charge against the petitioner was levelled on the premise that the petitioner acted as the Branch Manager of the said Branch in the

absence of regular Branch Manager. He has contended that it was specific plea of the petitioner before the Disciplinary Authority as well as the Inquiry Officer that the Branch Manager posted in the said Branch was, as a matter of fact, present in the Branch on the alleged date. He has submitted that the petitioner had requested the Inquiry Officer to call for the Attendance Register with respect to the said date on the basis of which it could be concluded as to whether the Branch Manager was in fact present on the said date or not. The attendance register, however, was not produced and non- production of the attendance register has seriously prejudiced the case of the petitioner. He accordingly, submits that this amounts to denial of adequate opportunity to the petitioner for the purpose of defending himself in the departmental enquiry. He has accordingly, submitted that the impugned order based on such deficient enquiry needs to be interfered with by this Court in exercise of power under Article 226 of the Constitution of India.

6. Learned counsel appearing on behalf of the

Bank on the other hand, while resisting the relief sought for by the petitioner has submitted that the petitioner himself admitted his guilt before the Inquiry Officer at least with respect to the charge nos. 2(a),2(b) and 2(c) whereby, it was alleged against the petitioner that he made payment of Rs. 39,000/- to the debit of interest accrued and payable account. He is said to have himself issued token no. 8596 and entered in the token Book but tempered the figure of Rs. 39,000/- and entered Rs. 9000/- in cash payment book mentioning therein as FDR/A/C, after making cash payment of Rs. 39,000/-. He has submitted that the petitioner was charged of having deliberately made a wrong total in token Book as well as cash payment Book and intentionally enhanced the total by Rs. 30000/- in the said Books and in order to conceal the aforesaid fraudulent transactions, he made the said entry in cash Book mentioning amount of Rs. 9000/- but while tallying the cash paid out in cash Book from cash payment Book, token Book, Cashier Summary and cash in hand on 16.8.1994, he deliberately enhanced the total by

Rs.30000/-. He has submitted that seeing the gravity of charge, which could not be denied by the petitioner in course of departmental enquiry, the disciplinary authority rightly imposed the punishment of dismissal from service upon the petitioner. He submits that conduct of the petitioner which stood proved in course of departmental enquiry amounts to gross misconduct and has further submitted that there having been no procedural irregularity, in the departmental proceeding, the order passed by the Disciplinary Authority or the Appellate Authority need not be interfered with in the present proceeding under Article 226 of the Constitution of India exercising power of judicial review..

7. I have perused Annexure-23 which contains the proceeding before the Inquiry Officer held on 23.9.1996 and 24.9.1996 in which the petitioner was present. Signature of the petitioner is available on the Minutes of the proceedings. The contents of proceeding therefore, cannot be denied in the present proceeding before this Court. I find that the petitioner had accepted the charge

Nos. 2(a), 2(b) and 2(c) levelled against him which are apparently very serious in nature, particularly, for a Bank employee. A bank officer is required to exercise higher standard of honesty and integrity since he deals with the money of the depositors and customers. What came to be proved against the petitioner was wholly unbecoming of a Bank Officer. The Supreme Court held in case of State Bank of India Vs. Bela Bachi reported in (2005) 7 SCC 435 that good conduct and discipline are inseparable from functioning of every officer/employee of the Bank.

8. As regards Charge Nos. 1(a) and 1(b), I find that the findings of the Inquiry Officer, with which the disciplinary authority has concurred, are based on evidence which have been discussed. The materials relied upon by the enquiry Officer in order to come to a finding that charge nos. 1(a) and 1(b) stood proved cannot be said to be without any basis. Such findings, in my opinion, cannot be interfered with in a proceeding under Article 226 of the Constitution of India as such findings cannot be said to be perverse.

9. From the order of the appellate authority, I find that he, upon due application of mind and after discussing the allegation and report of the Inquiry Officer, has rejected the petitioner's appeal and therefore, it does not require interference by this Court. I do not find any infirmity in the order of the Appellant Authority.

10. In view of the above, I find no merit in this application. This application is accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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