

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11010 of 1998

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Anuradha Devi wife of Satyadeo Singh, resident of village-Rasen Chak,
P.S. Naya Gaon, District Saran Chapra

.... Petitioner/s

Versus

1. Bihar Rajya Sahkari Bhumi Vikash Bank, Ltd., Patna through its
Administrator, Budh Marg, Patna.-1
2. Administrator, Bihar Rajya Sahkari Bhumi Vikash Bank, Ltd., Patna.1
3. The Deputy Managing Director (Adm), Bihar Rajya Sahkari Bhumi
Vikash Bank, Ltd., Patna.1
4. The Deputy Managing Director, Finance, Bihar Rajya Sahkari Bhumi
Vikash Bank, Ltd., Patna.1
5. The Deputy Managing Director, Planning, Bihar Rajya Sahkari Bhumi
Vikash Bank, Ltd., Patna.1.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.K. Ranjan

For the Respondent/s : Mr. Rajesh Prasad Choudhary

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

3 12-03-2015 1. The petitioner in the present application under Article 226 of the Constitution of India is aggrieved by an order issued vide Memo No. 12592 dated 04.12.1997 by the Administrator, Bihar Rajya Sahkari Bhumi Vikash Bank, Ltd. Budh Marg, Patna, whereby he has been dismissed from service. The original petitioner Satyadeo Singh died during the pendency of the writ application and accordingly in his place name of his wife Anuradha Devi has been substituted.

2. Assailing the impugned order, learned counsel for the petitioner has contended that as a matter of fact, there was no enquiry held by the Enquiry Officer and he just arrived at his own



findings on the basis of memo of charge and the petitioner's reply thereto. He contends that neither any presenting officer was appointed in the departmental proceeding nor any evidence, documentary or oral was adduced before the Enquiry Officer by the Bank in order to prove the charge framed against the original petitioner. He submits that it is a case of no evidence and the decision of the Disciplinary Authority passed on such report of the Enquiry Officer is wholly illegal in the eye of law. He has also submitted that the Enquiry Officer who was required to act as quai-judicial functionary, as a matter of fact, has acted as prosecutor and held the charges to be proved on his own.

3. Learned counsel appearing on behalf of the Respondent- Bank has raised a preliminary objection over maintainability of the writ application on the ground that the petitioner approached this Court under Article 226 of the Constitution of India without availing the alternative remedy of appeal before the competent authority. He submits that Rule 153 of the Service Rules of Bihar Rajya Sahkari Bhumi Vikash Bank, Ltd. provides remedy of appeal against the order of the Disciplinary Authority which is statutory in nature.

4. I find substance in submission made on behalf of the Respondent-Bank that the petitioner ought to have availed the

alternative remedy of appeal first, before approaching this Court under Article 226 of the Constitution of India.

5. Learned counsel for the petitioner does not dispute that there is remedy of appeal against the order which is impugned in the present writ application.

6. In view of the submissions as above, I dispose of the writ application giving liberty to the petitioner to approach the Competent Authority by filing an appeal against the impugned order within a period of fortnight from today. If he does so, the Appellate Authority shall not raise any point of limitation and will be required to consider the said memo of appeal on merits and dispose of the appeal within a period of six months from its presentation. The Appellate Authority, while disposing of the petitioner's appeal in compliance of the present order shall be required to consider the submissions made on behalf of the petitioner as noted above, if such points are raised in the memo of appeal.

7. This application is disposed of accordingly.

(Chakradhari Sharan Singh, J.)

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