

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11653 of 1998

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Diwakar Kumar S/o Late Sheo Shankar Prasad at present Asst. Manager, Bikram,
Punjab National Bank, resident of Keshri Nagar, PS Patliputra town and district
Patna Petitioner

Versus

1. Punjab National Bank through its Chairman-cum- Managing Director, Bhikaji
Cama Place, New Delhi
 2. General Manager (Personnel), Appellate Authority, Punjab National Bank,
Bhikaji Cama Place, New Delhi
 3. Zonal Manager, Disciplinary Authority, Bihar Zone, Punjab National Bank,
Chankya Complex, R. Block, Patna Respondents
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Appearance :

For the Petitioner : Mr. Shailendra Kr. Sinha, Advocate
Mr. Raj Kumar, Advocate

For the Respondents: Mr. Sharad Kumar Sinha, Advocate

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

ORAL JUDGMENT

Date: 31-03-2015

This writ application has been filed seeking quashing of the order dated 23.10.1996 passed by the Zonal Manager (Disciplinary Authority), Punjab National Bank (hereinafter referred to as the Bank), Patna whereby, penalty of “withholding of two increments of pay with cumulative effect” under Regulation 4(b) of Punjab National Bank Officers Employees (D & A) Regulations, 1977 has been imposed upon the petitioner on the ground of having committed misconduct in terms of Regulation 3(i)/ Regulation 24 of the Punjab National Bank Officers and Employees (conduct) Regulation, 1977. The order dated 19.04.1997 passed by the General Manager (Personnel) of the Bank (the Appellate Authority) is also under

challenge in the present writ application.

From the pleadings in the writ application as well as counter affidavit filed on behalf of the Bank, it appears that a departmental proceeding was initiated against the petitioner on the charge that he failed to observe pre sanction and post sanction norms/ procedure as prescribed by the Bank for borrowal accounts when he was posted as Assistant Manager at Nadwan branch of the Bank. It was alleged against him that he disbursed loans to the borrowers without verifying the business spot of the borrower at pre sanction stage. An Enquiry Officer was appointed to enquire into the allegations. A Presenting Officer was also appointed to assist the Enquiry Officer in presenting the case of the Bank. The Enquiry Officer submitted his report and found the charge leveled against the petitioner as not proved in his report submitted on 30.12.1995. The Disciplinary Authority, however, disagreed with the finding of the Enquiry Officer and on the basis of material available on record of the departmental enquiry he came to a tentative finding that the charge against the petitioner stood proved inasmuch as he failed to observe pre sanction and post sanction norms/ procedure as prescribed by the Bank for borrowal accounts. He, accordingly, issued to the petitioner tentative notes of his disagreement and asked the petitioner to submit his

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comments on his notes of disagreement. The petitioner availed the opportunity and submitted his comments on the said notes of disagreement. The Disciplinary Authority, considering the petitioner's comments on his notes of disagreement and records of the departmental enquiry, came to a conclusive finding in his impugned order dated 23.10.1996 that the charge against the petitioner that he failed to observe pre sanction and post sanction norms/ procedure, as prescribed by the Bank, stood proved. Accordingly, he imposed upon the petitioner minor penalty of "withholding of two increments of pay with cumulative effect" under Regulation 4(b) of Punjab National Bank Officers and Employees (D & A) Regulation, 1977. The petitioner preferred appeal against the said order passed by the Disciplinary Authority. The appeal came to be rejected by an order dated 19.04.1997 by the General Manager of the Bank (Appellate Authority). The orders of the Disciplinary Authority and Appellate Authority are, thus, under challenge in the present writ application.

Mr. Shailendra Kumar Sinha, learned counsel appearing on behalf of the petitioner, has made two main submissions on behalf of the petitioner to assail the impugned orders. He contends that the Disciplinary Authority, while imposing penalty upon the petitioner, has gone beyond the



charge leveled against the petitioner. He further contends that the Disciplinary Authority held the petitioner guilty of the charge on mere presumption that the supplies made by the suppliers to the borrowers appeared to be improbable. Mr. Sinha has, accordingly, submitted that even in the opinion of Disciplinary Authority, concrete evidence was not available before him to come to a conclusive finding that the supplies to the borrowers were in fact not made. He submits that there was no sufficient evidence to prove the charge against the petitioner and the Enquiry Officer on the basis of proper assessment of evidence had rightly come to the conclusion that the charge against the petitioner could not be proved in the departmental enquiry.

Learned counsel appearing on behalf of the Bank, on the other hand, supporting the disciplinary action taken against the petitioner, has submitted that the Bank took a lenient view while imposing minor penalty of withholding of two increments of pay with cumulative effect. He submits that the finding arrived at by the Disciplinary Authority cannot be said to be without any evidence. He has further submitted that there has been no breach of rules of natural justice or any procedural requirement in holding the disciplinary proceeding against the petitioner.



From the pleadings and documents available on record as well as on the basis of submissions made on behalf of the parties, I find that there has been no procedural lapse in holding the departmental proceeding, which finally resulted into imposition of penalty of “withholding of two increments of pay with cumulative effect”. I find that the order of the Disciplinary Authority is well discussed and is based on his own evaluation of the material available on record of the disciplinary proceeding. This is not the plea that the finding arrived at by the Disciplinary Authority is perverse so as to warrant interference by this court in a proceeding under Article 226 of the Constitution of India. It is settled principle that this court in a *certiorari* proceeding, exercising power of judicial review under Article 226 of the Constitution of India, is not supposed to act as an Appellate Authority. The finding arrived at by a quasi judicial authority in a departmental proceeding will normally not be interfered with in a proceeding under Article 226 of the Constitution of India unless such finding is perverse.

Learned counsel for the petitioner has vehemently submitted that there ought to have been concrete evidence in support of the charge against the petitioner and merely on the basis of probabilities such charge should not have been held to be proved by the Disciplinary Authority.

I need not reiterate the well settled and accepted principle that strict rules of evidence are not applicable in a departmental proceeding and charges can be said to be proved on the basis of preponderance of probabilities. If applying such standard of proof, as required in a disciplinary proceeding, the Disciplinary Authority came to a conclusion that the charge against the petitioner stood proved, such finding will not be required to be interfered with in a proceeding under Article 226 of the Constitution of India.

I have perused the order of the Appellate Authority confirming the order of the Disciplinary Authority. The Appellate Authority has considered the points raised by the petitioner in his memo of appeal and has dealt with the grounds taken in the memo of appeal. The order of the Appellate Authority is speaking and reasoned. The order of the Appellate Authority also needs no interference.

I find no merit in this writ application. It is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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