IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1193 of 2014
IN
Civil Writ Jurisdiction Case No. 516 of 2011

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Lallan Jee Prasad, son of late Kashi Saran Prasaad, resident of Village –Salempur, Police Station Sidhwalia, District Gopalganj

.... Petitioner/Appellant/s

Versus

1. The State of Bihar through the Registrar, Co-operative Societies, New Secretary, Bihar, Patna
2. The Bihar State Co-operative Bank Ltd. Through its Chairman, Ashok Rajpath, Patna
3. The Managing Director, Co-operative Bank Ltd. Through its Chairman, Ashok Rajpath, Patna
4. The Deputy General Manager Personnel & Administration, Co-operative Bank Ltd. Through its Chairman, Ashok Rajpath, Patna
5. The Incharge and Administration, Co-opeaative Bank Ltd. Through its Chairman, Ashok Rajpath, Patna

.... Respondents/Respondent/s

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Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Mishra
Mr. Satyendra Kumar
For the State : Mr. Indrajeet Bhushan, AC to GP 2
For BSCB Limited : Mr. S N Pathak
Mr. Prasant Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 14-05-2015

This Letters Patent Appeal is filed by the unsuccessful petitioner in CWJC No. 516 of 2011. The appellant was an employee of the Bihar State Co-operative Bank Limited, the 2nd respondent herein. Charge-sheet was issued to him on 8.9.2004 alleging, inter alia, that he collected large number of cheques deposited by P & T Co-operative Society with reference to their current account, but he fraudulently credited them into his own SB Account No.3046. It was alleged that he has stolen the Bill

Collection Register for the period from 13.10.98 to 8.8.2002 with an intention to cover up his misdeeds. Further allegation was that he has cheated some other customers like Sri Kamta Prasad Nayak and threatned Sri Shyam Kishore Sinha, Branch Manager.

The appellant submitted an explanation denying the charges. Therefore, the disciplinary authority appointed an enquiry officer. In his report dated 8.11.2007, the enquiry officer held that the charges are proved. Taking the same into account, the disciplinary authority passed an order dated 10.3.2008 dismissing the appellant from service. The appeal preferred before the Appellate Authority was rejected through order dated 3.11.2010. Thereafter the appellant filed CWJC No. 516 of 2011.

The learned single judge dismissed the writ petition through order dated 10.3.2014. Hence, this appeal.

Heard learned counsel for the appellant and learned counsel for the respondents.

Three grounds were urged before the learned Single Judge as well as before us. The first is that the orders passed by the Disciplinary Authority and the Appellate Authority are not supported by any reasons. We have perused the order dated 10.3.2008 passed by the Disciplinary Authority. It is important to note that the appellant approached this Court by filing CWJC no. 643 of 2007 on earlier occasion, and taking note of the order passed therein, the Board of Directors of the Bank passed a resolution dated 18.8.2008 wherein it was decided that the appellant be dismissed from service. The Managing Director has only communicated the purport of the resolution of the Board of Directors. The order itself indicates that the resolution was passed after hearing the submissions of the appellant. We cannot expect the proceedings before the Board, to be at par with those in the Courts. The appellant cannot expect the better reasons than what are contained in the order of dismissal.

The order dated 4.11.2010 passed by the Appellate Authority, i.e. Annexure-22, has taken note of all the relevant facts and a thorough discussion was undertaken. Therefore, it cannot be said that Annexure-22 is bereft of any reason. Hence, we are not impressed by the contention of the appellant.

The second ground, urged on behalf of the appellant is that he has been discriminated in the matter of punishment. To be precise, what he contends is that though two other persons, by name Ram Janam Singh and Ram Prahlad Singh were also subjected to disciplinary proceedings, he alone was imposed the punishment of dismissal. Once it is not disputed that the charges framed against the petitioner are serious and they are held to be proved, he can only urge as to whether the punishment is commensurate with the charges. It is not the case of the appellant that same charges were framed against the other two persons. The appellant was the one, who received cheques from the account-holders and deposited to the credit of his own account. Added to that, he has stolen the accounts books. For all practical purposes, the appellant admitted his guilt but is drawing comparison with those against whom the charges were somewhat different. We do not find any force in this contention.

The third ground pleaded by the appellant is that the surcharge proceedings, initiated against him by the Department, ended in his favour, and in that view of the matter, the disciplinary proceedings do not have the legs to stand. This contention is recorded, only for being rejected. The parameters for adjudication of the surcharge proceedings are substantially different from those in the disciplinary proceedings. The surcharge proceedings are almost quasi-criminal in nature and it is only when adequate proof is made available, that an order of surcharge may be passed. The disciplinary proceedings, on the other hand, stand on different footing. Even before us, the appellant is not able to demonstrate that the findings recorded in the disciplinary proceedings are not correct.

We do not find any merit in this appeal. The appeal is accordingly dismissed.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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