

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1031 of 2015

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Krishna Ballav Singh @ Krishna Ballabh Singh S/o Late Ram Chandra Singh R/o
Vill. + P.O. Dunhi, P.S. Gadhpur, Distt. - Begusarai

.... Petitioner/s

Versus

1. Bihar Gramin Bank, Zero Mile, North Gate Fertilizer, P.O. + P.S. Bihat, Distt. - Begusarai through its Chairman
2. General Manager (Operation - 1) Bihar Gramin Bank, Zero Mile, North Gate Fertilizer, P.O. + P.S. Bihat, Distt. - Begusarai through its Chairman
3. Senior Manager (PAD) Bihar Gramin Bank, Zero Mile, North Gate Fertilizer, P.O. + P.S. Bihat, Distt. - Begusarai through its Chairman

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 25-03-2015

No one appears for the petitioner.

Learned counsel for the Bihar Gramin Bank is present.

In this writ application, the prayer of the petitioner reads

as follows:-

- "1(i) *For quashing the find order of punishment dt. 27/02/2014 issued by the resp. no.2 and communicated to the petitioner under letter no. CRN/3412/13-14 dt. 27/02/2014 whereby and whereunder recovery of pecuniary loss caused to the Bank has been directed to be made from the salary and allowance @ Rs. 20,000/= per month till retirement of the petitioner.*
- (ii) *For quashing the order vide letter no. HO/P/199/1171/2014-15 dt. 17/06/2014 passed by the resp. no.1 and communicated by the resp. no.3*

whereby and whereunder the appeal preferred by the petitioner has been rejected by one line order without assigning any reason.

- (iii) *For direction upon the resp. authorities to pay back the recovered amount to the petitioner with interest.*
- (iv) *For restraining the resp. authorities from making recover from the petitioner till disposal of the writ application."*

Let it be noted that on the last day of hearing of this case on 16.2.2015, when the learned counsel for the petitioner had appeared, he had raised a question that the appellate order was non-speaking. This Court having found that such order annexed by the petitioner in the writ application was only a communication of the appellate order and, therefore, it had passed an order for production of the complete appellate order as would be relevant to reproduce the order dated 16.02.2015 which reads as follows:-

"While learned counsel for the petitioner has raised a simple issue with regard to appellate order being not speaking, learned counsel for the Bank submits that from perusal of Annexure-2, it appears that the appellate order, enclosed with this writ application, is mere communication and there could be another speaking appellate order.

Put up this case after two weeks under the heading 'For Orders' when learned counsel for the Bank shall produce the records including the final speaking appellate order."



Learned counsel for the Bank has thereafter produced the same by way of filing a counter affidavit. The copy of such counter affidavit has also been served on the learned counsel for the petitioner on 9.3.2015 and he was given time to file reply to the counter affidavit by an order dated 10.03.2015 but no affidavit in reply has been filed by the petitioner till date and now the learned counsel has also chosen not to appear today.

This Court has however carefully perused the materials on record and has found no infirmity in the enquiry. The petitioner was found to be guilty by the Enquiry Officer in the enquiry report which was submitted by him after affording adequate opportunity to the petitioner. Such findings of the enquiry officer was transmitted to the petitioner whereafter the petitioner had filed his comment/reaction to the enquiry report and the Disciplinary Authority after considering the same has passed the final order on 27.2.2014, wherein, he had recorded as follows:-

"The charges leveled against Sri K.B. Singh as under have been found proved by the Enquiry officer to which I also agree.

Charge No.1

Sri K.B. Singh has sanctioned personal loans to undernoted employees of Railways and other Govt. department duluting the laid down norms of the Bank. Neither any employee belonged to the area of operation of Desua branch nor the payment of their salary was made through the branch. Presently, all the accounts have become NPA and the Bank has to incure loss of Rs. 5,50,331/- plus accrued interest.

A/c No.	Name of borrowers	Date of disbursement of loan	Balance outstanding	Date of last deposit	Department
TL-41	Chandradeo	22.04.03	57,104.00	27.06.03	Rly. Deptt.
TL-39	Indradeo Paswan	18.04.03	1,07,955.00	16.10.06	Rly. Deptt.
TL-38	Sukh Sagar Rai	18.04.03	1,01,770.00	17.03.07	Rly. Deptt.
TL-37	Hira Poddar	18.04.03	1,00,454.00	27.06.03	Rly. Deptt.
TL-36	Anand lal das	18.04.03	1,06,194.00	17.03.03	Rly. Deptt.
TL-23	Suresh paswan	06.02.03	31,026.00	31.03.06	Chowkidar
TL-26	Umesh Malakar	08.04.03	45,828.00	29.03.07	Sadar Hospital, Samastipur
		Total	5,50,331.00		

Thus, Sri Singh has violated the Bank's extant instructions of sanctioning and disbursement of loan with vested interest for pecuniary gain which may jeopardize the Bank's interest and the Bank is likely to suffer huge loss.

Charge No.2

Sri K.B. Singh has sanctioned personal loan to Indradeo Paswan, as detailed under, who had already availed loans from our Tajpur Road branch. Neither the employee belonged to the area of operation of the branch nor the payment of his salary was made through Desua branch.

Name of borrower	Amount of loan sanctioned	Date of sanction as Tajpur Road br.	Date of sanction at Desua Branch
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Thus, Sri Singh has violated the Bank's norms for sanction and disbursement of loans with malafide intention and pecuniary gains which may cause loss to the Bank.

I also find that Sri Sangh has not discharged his duties honestly and committed willful negligence of very serious nature. Further, dereliction of duties has also been proved, which is highly

detrimental to the Bank's interest. Due to his such acts bank is incurring loss of Rs. 12,29,168/- including accrued interest as on 22.02.14 against undernoted accounts which are not recoverable.

Sl. No.	A/c No.	Name of the borrower	Balance outstanding	Accrued Intt as on 22.02.14	Total
1.	39310600000027	Chandradeo	57,104.00	62,641.00	1,19,745.00
2.	39310600000028	Indradeo Paswan	1,07,955.00	1,36,192.00	2,44,147.00
3.	39310600000029	Sukh Sagar Rai	1,01,770.00	1,29,530.00	2,31,300.00
4.	39310000000030	Hira Poddar	1,00,454.00	1,12,236.00	2,12,690.00
5.	39310600000031	Anand lal das	1,06,194.00	1,33,786.00	2,39,980.00
6.	39310600000032	Suresh paswan	31,026.00	50,908.00	81,934.00
7.	39310600000063	Umesh Malakar	45,828.00	53,544.00	99,372.00
	Total		5,50,331.00	6,78,837.00	12,29,168.00

Having considered the findings in the enquiry report and the explanation filed by the petitioner on 16.7.2012 as also after affording opportunity of personal hearing, the Disciplinary Authority had passed the order of punishment in the following terms:-

"In view of the above, after taking into consideration of all the aspects of the case, each and every facts, evidences, I am inclined to take a view and in exercise of the power conferred on me by Bihar Gramin Bank (Officers & Employees) Service Regulation, 2010 and Regulation 2(g)(ii) of Bihar Gramin Bank (Amendment) Regulation, 2013, I hereby impose the penalty to recover of Rs. 12,29,168.00 plus interest i.e. the full closure amount of the above said loan a/cs from salary & Allowances (emoluments) or such other amount as may be due to Sri Singh as pecuniary loss caused to the Bank by his such acts in terms of Sec. 39.1 (a) (iv) of Bihar Gramin Bank (Officers & employees) Service Regulation,

2010.

As the retirement date of Sri K.B. Singh is 31.01.2016, therefore, recovery of pecuniary loss caused to the Bank to be made from his salary and Allowance @ Rs. 20,000/- per month till his retirement and rest amount will be deducted from his terminal/superannuation benefits."

Let it be noted that the aforesaid order of punishment was assailed by the petitioner in appeal and the appellate authority had again independently examined the findings in the light of the issue raised by the petitioner in the memo of appeal and, thereafter, had recorded as follows:-

"The Appeal dated 21.03.2014 received on 28.03.2014 of Shri K B Singh, Officer, presently posted as BM at Kaithwan branch under Regional Office - Lakhisarai against final order dated 27.02.2014 passed the Disciplinary Authority in the matter of charge sheet bearing reference No. Vig/Gen/28/46/08-09 dated 06.03.2009 was placed before me as the Appellate Authority for consideration.

I as Appellate Authority have carefully gone through the contents of appeal and all the papers and evidences as lying on the records pertaining to the appeal of the appellant. Having applied my mind in the matter free from any prejudice and after looking into all the papers carefully, considering the contents of the appeal and points raised by the charge sheeted officer, I as the Appellate Authority, do hereby take following decision.

- 1. The points were raised by the charge sheeted staff have no standing in the wake of the facts and that principles of natural justice have been strictly adhered to.*
- 2. The Enquiry Officer and the Disciplinary Authority reached their conclusion/findings in natural flow after careful study of records and due diligence exercised.*
- 3. Shri Singh committed gross misconduct and involved in*

negligent acts due to which Bank has suffered a lot for which he cannot be condoned.

4. The quantum of punishment as awarded by the Disciplinary Authority has also been reviewed and found to be in consonance with the nature of misconduct was perpetrated. In the capacity of the Appellate Authority, I have come to the conclusion that there is no material which may show the interference in the order passed by the Disciplinary Authority; hence I do hereby pass following order.

"Upheld the decision of the Disciplinary Authority dated 27.02.2014"

(A S Shekhawat)

Chairman & Appellate Authority

This Court has therefore found that the charge against the petitioner of causing loss to the Bank was conclusively proved and that there was/is no procedural infirmity in the departmental enquiry or even in cause of passing the impugned order of punishment and its affirmance in appeal.

In that view of the matter this writ application must be held to be devoid of any merit. It is accordingly dismissed.

(Mihir Kumar Jha, J)

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