

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14797 of 2015

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Ram Bilas Zenith son of Late Tilo Das, resident of village- B.N. Railway Colony, Post Office- Manihari, P.S.- Manihari, District- Katihar, at present working in Central Bank of India, Manager, L.D.M. Office, Katihar

.... Petitioner/s

Versus

1. The Chairman Cum Managing Director, Central Bank of India, Mumbai
2. The General Manager, H.R.D., Central Bank of India, Mumbai
3. The General Manager, Central Bank of India, Patna
4. The Appellate Authority cum Deputy General Manager, Central Bank of India, Patna
5. The A.G.M. Disciplinary Authority (Additional General Manager), Central Bank of India, Regional Office, Purnea
6. The General Manager, Chief Vigilance Officer, Central Bank of India, Zonal Office, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Patil, Adv

For the Respondent/s : Mr. Manju Jha, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 17-09-2015 Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application reads as follows:-

“that this writ application has been filed for quashing the order passed by the Appellate Authority/D.G.M. Central Bank of India, Patna against the order of Disciplinary Authority, Regional Manager which was communicated to the petitioner vide Letter non. RO/PURN/HRD/-DAD/2015-16/31 DATED 22.04.2014 in ANNEXURE-1 whereby the petitioner has been found guilty in a disciplinary proceeding and punishment has been imposed against the petitioner “Reducing to a lower grade i.e. from MMGS-III to MMGS-II” and Reduction of six (6) stage in the time scale of pay upto date of retirement. The appellate authority disposed of appeal on 11.06.2015.”

3. Learned counsel for the petitioner in support of the aforementioned prayer has basically concentrated on

the aspect of the principles of natural justice during the course of inquiry and to that extent he has relied on an application filed by the petitioner on 27.03.2015, as with regard to supply of report of one Rajesh Kumar Giri, Manager of the Bank. This Court has accordingly perused the materials on record. From them, it would be more than visible that the petitioner was subjected to a regular departmental proceeding by way of framing of charge against him on 04.09.2014, such charges against the petitioner had read as follows:-

**“Central Bank of India
REGIONAL OFFICE-PURNEA
ANNEXURE-I**

Articles of charges against Sri Ram Bilas Zenith, Sennior Manager, Kishanganj Branch.

Sri Ram Bilas Zenith, Senior Manager, Kishanganj Branch, has committed the following acts of omission and commission with malafide intention as Branch Manager at Kishanganj Branch.

Charge No. -1

Sri Zenith had sanctioned/disbursed House Building Loan to Mr. Rafiqul Islam, A/C No. 2991433601 on 19/07/2014 for Rs. 30.00 Lacs (Rs. Thirty Lacs) for the construction of IInd floor whereas his previous loan of Rs. 14 lacs sanctioned on 16/02/2013 (A/C No. 2958771447) for the construction of ground floor for the same building is in record. Total exposure is Rs. 44.00 lacs (Rs. Forty four lacs), which is beyond his delegated power. As such Sri Zenith violated the central office Instruction circular No. 1013 dt. 20/11/2012. There are other irregularities found in HBL account No.-2991433601.

Charge No.-2.

Sri Zenith had sanctioned and disbursed House Building Loan to Abdus Salam (A/C No. 2991799101) on 25/07/2014 and 31/07/2014 respectively with sanction limit of Rs. 25 lacs (Rs. Twenty Five lacs). Whereas a HBL loan of Rs. 9.00 lacs (A/C No. 3177051815) had already been

sanctioned/disbursed to the same party on same property. Further the first HBL A/C has already turned to NPA as on 30/08/2013 and SARFAESI action has already been initiated against this HBL (A/C No. 3177051815). Present status of this account (A/C No.-3177051815) is NP A and outstanding is Rs. 913487.00 as on 31/08/2014. There are other irregularities found in HBL account no. 2991799101.

Charge No.-3

Sri Zenith had sanctioned/disbursed Cent Mortgage loan (A/C No. 2991432868) of Rs. 20.00 ;lacs (Rs. Twenty Lacs only) to Ali Enterprise (Prop-Musharrat Ali) on 19/07/2014, without considering the income criteria. There are other irregularities found in this account.

Charge No.-4

Sri Zenith had sanctioned and disbursed House Building loan (A/C No. 2991817189) of Rs. 20.00 lacs (Rs. Twenty Lacs only) to Abu Rehan Haider on 21/07/2014 and 01/08/2014 respectively, whereas the Registered mortgage is created for Rs. 14.00 lacs (Rs. Fourteen lacs) only. There are other irregularities found in this account.

Charge No.-5

Sri Zenith allowed to debit the P&L A/C of Branch frequently without genuine ground even he has purchased Mobile and frequently used the hired four wheeler vehicle without permission of higher authority. There are other irregularities found in this account”.

4. The petitioner had filed his written statement of defence on 29.09.2014, where though he has given his own explanation but then from the reading of the same (Annexure-3), it would be absolutely clear that even on that stage the petitioner had not even remotely referred to the aforesaid report of Rajesh Kumar Giri, in any manner, much less had demanded a copy thereof. Thereafter, the departmental proceeding was conducted and after leading of the evidence both oral and

documentary, the disciplinary authority had passed an order of punishment on 22.04.2015, whereby and whereunder, the petitioner was subjected to the following punishment:-

“Central Bank of India

REGIONAL OFFICE-PURNEA

RO/PURN/HRD-DAD/2015-16/32

DATE: 22/04/2015

ADMINISTRATIVE ORDER

Sri Vinod Kumar, Disciplinary Authority/sRegional Manager, Regional Office, Purnea, vide final order no. RO/PURN/HRD-DAD/2015-16/31 dt. 22/04/2015 has awarded the Penalty as hereunder to Mr. Ram Bilas Zenith (P.F. No.-083029), Senior Manager, Branch Officer, Kishanganj, in Pursuance to the Charge Sheet No. RO/PURN/HRD-DAD/2014-15/71 dt. 04/09/2014.

1.”Reduction to a lower grade i.e from MMGS-III to MMGS-II, under Regulation 4(g) of CBIOE (D&A) Regulations, 1976 as amended up to date and

2-Reduction of six (6) stages in the time scale of pay up to the date of his retirement i.e. 30.11.2016 under Regulation f(f) of CBIOE (D&A) Reg. 1976 as amended up to date with further direction that CSOE will not earn any increment of pay during the period of such reduction.”

Both these two punishments will run independently and concurrently.

Mr. Ram Bilas Zenith (P.F. No.-083029), Senior Manager, Branch Office, Kishanganj, is informed that the above penalty is inflicted upon him with immediate effect. All consequence upon the above Penalty will be applicable to him.

(VINOD KUMAR)

Regional Manager

To,

Sri Ram Bilash Zenith,

Senior Manager, Branch Office, Kishanganj.”

5. As against the aforementioned order, the petitioner had filed an appeal on 21.05.2015, wherein,



though the petitioner had mentioned about non supply of the inquiry report of Rajesh Kumar Giri but then from the same it becomes clear that Rajesh Kumar Giri had only conducted the preliminary inquiry. Such preliminary inquiry in fact will loose all its significance after framing of the memo of charge and as a matter of fact when that report has neither been looked into nor relied for the purpose of holding the petitioner guilty or inflicting punishment on him, this Court will not find that any prejudice was caused to the petitioner, specially when the petitioner had not raised this issue as with regard to either examination of Rajesh Kumar Giri or supply of his preliminary inquiry report in his written statement of defence. What is more important to be noted here is that in the memo of appeal, he also does not claim that he had demanded such copy of the report of Rajesh Kumar Giri and as a matter of fact also does not show its receipt by the authority, which had framed charge against the petitioner. In any event, this Court would find that there was no fatal procedural error in the

departmental inquiry of the appellate authority, in fact having examined the charges and the finding of the inquiry officer as also of the disciplinary authority, on application of mind, has not found either the plea of the petitioner raised by him, to be correct or the punishment to be disproportionate, as would be evident from the reading of the following passage of the earlier order:-

“Central Bank of India

.....
ZONAL OFFICE, PATNA
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On the above grounds, the appellant has requested to reconsider the punishment awarded to him.

In order to decide the appeal, I have gone through very carefully all papers (Inquiry proceedings, IA findings, Submission of Shri Zenith in line of his defence as also points raised in his appeal. I observed that the Principles of Natural Justice have been observed in the conduct of the inquiry against the appellant and every opportunity was provided to him to defend the case. I have also given a careful consideration to the Appeal preferred by the appellant and put my observation/findings/orders as under.

1. He has not submitted any new facts in his appeal. All the facts/points mentioned in his appeal have been taken in to consideration by Disciplinary Authority while issuing final order.

2. It has been proved in enquiry that CSO has sanctioned a loan of Rs. 30.00 lac to Mr. Rafiqul Islam under housing scheme, although another housing loan for Rs. 14.00 lacs had already been outstanding in the name of borrower. Thus he sanctioned loan amount which was not in his delegated lending power.

3. It has been proved in enquiry that CSO has sanctioned a housing of Rs. 25.00 lacs to Abdus Salam although another housing loan for Rs. 9.00 lacs in the name of same borrower had already been outstanding and account was NPA. There were other irregularities in sanction of loan.. Thus he abused his lending power while sanctioning this loan.

4. It is proved in enquiry that CSO has sanctioned a Cent Mortgage loan of Rs. 20.00 to Ali Enterprises on manipulated income of borrower. There are other

irregularities in sanction of loan. Thus he manipulated the facts for his pecuniary gain.

5. It is proved in enquiry that CSO had sanctioned a housing loan of Rs. 20.00 to Mr. Abu Rrehan Haider. But registered mortgage was created for only Rs. 14.00 lacs. For arriving loan amount of Rs. 20.00 he fed manipulated income in CLASS and sanctioned higher loan amount. Thus he abused authority vested upon him for his pecuniary gain.

6. It is proved in enquiry that CSO had allowed debit of PL frequently without genuine ground. Thus he abused power vested upon him.

In view of the above, I am convinced that the penalty awarded by the Disciplinary Authority is commensurate with the financial indiscipline shown by the Appellant and no relief whatsoever is warranted in the context of penalty imposed on him.

The undersigned finally upholds the punishment imposed by the Disciplinary Authority, which is as under.

1. "Reduction to a lower grade i.e from MMGS-III to MMGS-II", under Regulation 4(g) of CBIOE (D&A) Regulations, 1976 as amended up to date and

2. Reduction of six (6) stages in the time scale of pay up to the date of his retirement i.e 30.11.2016 under Regulation 4(f) of Central Bank of India Officer's Employees (Discipline and Appeal) Regulation 1976 as amended up to date with further direction that CSOE will not earn any increment of pay during the period of such reduction."

Both these two punishment will run independently and concurrently.

Thus, the appeal is disposed off.

This is ordered accordingly,

(Bh Satyanarayana)

Appellate Authority/DGM

To,

Shri Ram Bilas Zenith

PF. No. 083029

Manager

LDM Office, Katihar."

6. Having regard to the aforementioned findings and the inescapable position in law, this Court in exercise of its power under Article 226 of the Constitution of India, cannot sit as an appellate authority over the decision of the disciplinary authority and has to

only make a judicial review that as with regard to any fatal infirmity in course of departmental inquiry. This Court would thus find no reason to interfere with either of the impugned orders inasmuch as both the disciplinary authority and the appellate authority have given acceptable reasons in respect of their finding.

7. This Court therefore will have no occasion to go on the question of the merit of the charges an aspect which has to be gone into by the disciplinary authority as was held by the Apex Court in the case of B.C. Chaturvedi Vs. Union of India & Ors. reported in 1995(6)SCC 749.

8. Thus, for the reasons indicated above this writ application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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