

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.734 of 2016

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Akhil Kishore Prasad Singh, aged about 61 years, S/o late Ram Bachhan Singh,
Resident of Mohalla- Adarsh Vihar Colony, Rukunpura, P.s Rupaspur, District
Patna.

.... Petitioner/s

Versus

1. Central Bank of India through Field General Manager, Central Bank of India,
Chandramukhi Nariman Point, Mumbai-400021.
2. The Field General Manager, Central Bank of India, Zonal Office, Maurya Lok
Complex, P.S. - Kotwali, District - Patna.
3. The Deputy General Manager, Central Bank of India, Zonal Office, Maurya
Lok Complex, P.S. - Kotwali, District -Patna.
4. The Regional Manager, Central Bank of India, Regional Office- Maurya Lok
Complex, Patna, P.S. Kotwali, District - Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Adv. with
Mr. Rajeev Kumar Singh

For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

C.A,V, JUDGMENT

Date: 02-12-2016

The petitioner, an ex-employee of the Central Bank of India, is aggrieved by the order bearing Memo No.ZO/AHM/HRD/2014-15/260 dated 3.6.2014 passed by the Disciplinary Authority, whereby he has been imposed punishment of reduction of eight stages in the time scale of pay until his date of retirement i.e. 31.5.2015 with a further direction that the petitioner would not earn increments of pay during the period of reduction and on expiry of such period, the reduction will have the effect of postponing future increments of his pay. The order of punishment passed in terms of Regulation 4(f) of the Central Bank of India



Officer Employees' (D & A) Regulation, 1976 (hereinafter referred to as 'the Regulation) impugned at Annexure-1 has been affirmed by the Appellate Authority who has rejected the statutory appeal preferred by the petitioner vide order passed on 31.12.2014 impugned at Annexure-2.

Mr. Rajendra Prasad Singh, learned senior counsel has appeared for the petitioner while the Bank is represented by Mr. Ajay Kumar Sinha.

Facts of the case briefly stated is that the petitioner while holding the post of Manager, Nawada Branch of the Central Bank of India was served with a charge memo on 9.3.2013 for the alleged irregularities committed by him while serving as a Branch Manager, Kisan College Branch. The charges are three-fold, namely:

- (a) The petitioner sanctioned/disbursed 289 loan accounts under SCDC scheme out of 295 applications received during the financial year 2011-12 and 2012-13 although the Lead Bank had allotted a target of 11 such accounts for each branch of the Central Bank of India for the financial year 2012-13;
- (b) The petitioner financed only six trades/activities to accommodate these 289 applicants for the loan; and
- (c) The 289 loan applications were sanctioned/disbursed



without observing the laid down norms and the guidelines of the Bank.

The petitioner responded to the imputation of misconduct by his reply, a copy of which is present at Annexure 4 to the writ petition defending his acts. Not being satisfied that a formal charge-sheet identical to the show cause memo present at Annexure-3 was served on the petitioner on 10.5.2013, a copy of which is placed at Annexure-6 and which again was responded to by the petitioner vide reply dated 18.10.2013, a copy of which is present at Annexure-9. The Enquiry Officer submitted his report, a copy of which is placed along with Annexure-10 holding the charges proved. The petitioner was also asked to give his representation which was duly responded to by the petitioner vide Annexure-11. The explanation given by the petitioner was rejected by the Disciplinary Authority who has proceeded to pass the order of penalty on 3.6.2014 vide Annexure-1. The petitioner filed statutory appeal vide Annexure-12 and which also has been rejected by the Appellate Authority vide order passed on 31.12.2014 vide Annexure-2. The petitioner feeling aggrieved is before this Court.

While it is the argument of Mr. Rajendra Prasad Singh, learned senior counsel representing the petitioner that in absence of any advisory issued to the petitioner restricting the proposals to 11,



the bona-fide act of the petitioner which has not resulted in any loss to the Bank, cannot be termed as a misconduct. With specific stress on the statement made at paragraphs 28 to 32 of the writ petition he submits that no evidence was led by the respondent-Bank to confirm that any such advisory was communicated to the petitioner regarding limitation to the disbursement nor any evidence has been adduced to support the allegation that the act of the petitioner was prejudicial to the interest of the Bank. He submits that although exhaustive reply has been filed by the petitioner not only before the Enquiry Officer in response to the charge but also before the Disciplinary Authority and the Appellate Authority but all of whom have simply ignored the explanation of the petitioner to mechanically impose the punishment which is based on no evidence.

The argument of Mr. Singh has been contested by Mr. Sinha, learned counsel appearing for the Bank to submit that the petitioner holding the post of Branch Manager was a repository of public trust and a disbursement of loan could not have been de hors the statutory guidelines. He submits that absence of loss in the process is no ground to absolve the petitioner of the allegations for the moment it is established that he had acted contrary to the guidelines then the consequences are serious and the petitioner would have to face the same. He submits that as against the target of



11, the petitioner disbursed 289 loans which were far excessive of the guidelines and considering the default, the punishment imposed is rather reasonable. Learned counsel submits that the Bank Officers have to be very careful in disbursement of loan because they are dealing with public money and any default in its disbursement is treated to be a serious default which is unpardonable. He further submits that simply because such serious default has not resulted in any loss to the bank, would not absolve any Bank employee of the misconduct. Learned counsel in support, has referred to the following judgments:

- (1) **(1996)9 SCC 69 (Disciplinary Authority cum Regional Manager vs. Nikunja Bihari Patnaik), paragraphs 7 and 8.**
- (2) **(2003)4 SCC 364 (Chairman and Managing Director, United Commercial Bank vs. P.C. Kakkar), paragraph 14.**
- (3) **(2005)1 SCC 13 (Ganesh Shanta Ram Siru vs. State Bank of India) Paragraphs 33 and 34.**
- (4) **(2012)3 SCC 142 (Avinash Sadashiv Bhosale vs. Union of India) paragraph 56.**
- (5) **(2015)2 SCC 610 (Union of India vs. P. Gunasekaran).**



In reference to the judgments above noted it is the argument of Mr. Sinha that the allegations are rather serious and the Bank having taken a lenient view of the matter, it is not a case for interference either on merits or on the quantum of punishment. He submits that the scope of interference in disciplinary proceeding is well settled and since all opportunity has been given to the petitioner to defend himself and the Disciplinary Authority after having examined the allegations in the backdrop of the materials available has impugned the punishment which requires no interference.

I have heard learned counsel for the parties and I have perused the records.

There is no dispute on facts. The petitioner does not dispute the disbursement of 289 loan accounts. The dispute is that while the Bank charges him of flouting the advisory of restricting disbursement to 11 loan accounts only, the petitioner has specifically denied any such advisory being received in the Bank. A specific statement to such effect is not only present in the explanation given by the petitioner before the Disciplinary Authority but also at paragraph 32 of the writ petition and although a counter affidavit is on record but the statement made in paragraph 32 of the writ petition has not been denied. Meaning thereby the specific stand of the petitioner that the target whatsoever was fixed by the Lead Bank was



never communicated to the petitioner goes uncontested. The allegation no doubt is serious but it would have to be tested in the backdrop of the stand taken by the petitioner regarding absence of information of fixation of target. In this context I would be referring to certain paragraphs of the reply filed by the petitioner which has neither been dealt with by the Enquiry Officer or the Disciplinary Authority and even the Appellate Authority has mechanically upheld the views expressed by the Disciplinary Authority.

A copy of the enquiry report is present at Annexure-10 and a cursory glance thereto would show that it does not in any manner deal with the stand taken by the petitioner to explain the situation. Although the charge-sheet enclosed at Annexure-6 lists 3 charges but while the charge nos.1 and 3 are interconnected and relate to disbursement of 289 loan accounts as against the target of 11, charge no.2 casts aspersion on the petitioner to restrict disbursement to only six trades/activities. The enquiry report is non-descriptive and nowhere deals with the stand of the petitioner in defence of his actions. In this regard I deem it necessary to reproduce the stand taken by the petitioner in response to the allegations made against him and which as I have said earlier, has gone unnoticed by the Enquiry Officer, the Disciplinary Authority as well as the Appellate Authority. Reference is made to the statement



of the petitioner in his reply to the charge-sheet filed before the Enquiry Officer, a copy of which is present at Annexure-9.

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“The P.O. has failed to produce any document suggestive of allotment of target under the scheme either by Regional Office/LDM office Biharsharif which might have been considered as most authentic and guiding document. But since there was no such document of target, it could not be brought before the enquiry.

Kisan College, Biharsharif was an extension counter prior to conversion to Branch in the M/O June 2011. So, no specific target was fixed and conveyed to the branch neither by the district authorities nor by Regional Office, Gaya.”

At page-60-

“All the applications were forwarded by competent authorities of Govt. department and there had no apparent reason to return the applications, the loans were sanctioned and disbursed for this pious purpose.

However, prior to sanction and disbursement of loans under question altogether 163 applications were sanctioned/disbursed by the B/O Kisan \college in previous year, for which audit was done and the audit report was closed well within the knowledge of higher authorities. Had there been anything wrong found at that time it would have been communicated to the CSOE suitably and should have been instructed to desist from financing for this pious purpose. But, nothing of this sort was done by the higher authorities at that time.

We request your kind perusal of the DEX-40 i.e. letter addressed to Regional Office, Gaya dt. 26.10.2011 written by the CSOE, the then Branch Manager B/O Kisan College with regard to applications received under the scheme, allotment of target and sanctions made under scheme followed by claims of subsidy. This letter is enough to indicate that the CSOE was quite vigilant and had not tried to suppress any fact from the higher authorities, rather on the telephonic instruction of the higher



authorities the proposals were not rejected.

As far as financing without observing Service Area Approach is concerned the master circular no. RBI 2004-05/293 dt. 01.12.2004 duly produced before the enquiry as DEX 39 (a) & 39 (b) is enough to clear the mist that Bihar Sharif, being an urban area is not covered under the Service Area Approach, as it is confined to rural & semi urban branches only for financing under Govt. sponsored schemes.”

At page 61-62-

“The CSOE has been alleged of sanctioning loan proposals without observing laid down norms/guidelines of the bank, hence defense side during the enquiry demanded banks circular about such guidelines as per following listed documents.

- (i) Staff Circular/document preventing Loans beyond allotted Target.
- (ii) Staff Circular/Document preventing Urban branches from financing beyond Service Area.
- (iii) Staff Circular/Document preventing closure of Loan A/cs prior to stipulated period.
- (iv) Staff Circular/Document indicating that the subsidy towards poverty alleviation programme for SC/ST are back ended and has any stipulated lock in period.

(Please refer EPP no.17 dt. 03.10.2013)

The I.A. (yourself) during the enquiry stated and got recorded that these are not specific and as such expressed inability before the enquiry (refer EPP no.17), which leads to construe that the charges alleged against the CSOE were also not specific. As per norms of imputation of charges the same be specific and not vague.

It was imperative on the part of the management side to produce any such evidence to support their charge of violating lending norms as alleged, but management side did not produce any such document as evidence in support of the charge. Rather, they refused to produce those documents as evidence as demanded by the defense on the pretext of “NOT SPECIFIC”. Hence, during enquiry no supporting evidence were produced by the management side. Rather, they deliberately escaped



to produce such documents. Hence, the management failed to prove the charge. ”

Similar stand was taken by the petitioner before the Disciplinary Authority while filing his representation against the enquiry report, a copy of which is present at Annexure-11. While reiterating the position the petitioner has specifically stated that he has discharged his duties with the sole object of protecting the interest of the Bank and that the business during his tenure enhanced five times and the profit earned by the Bank was enhanced 1.07 crores. He has specifically stated that all such loan accounts are genuine and are earning profit for the Bank. The stand of the petitioner thus is two-fold and i.e.:

- (a) In absence of any advisory received in his Bank regarding fixation of target, the disbursement of loan was plainly with view to expand the business interest of the Bank; and
- (b) All loans disbursed by him were genuine and has earned profit for the Branch.

The order of the Disciplinary Authority is impugned at Annexure-1 and even when he has taken notice of the fact regarding receipt of advisory issued by the Lead Bank regarding fixation of target at the Kisan College Branch only in July, 2013 i.e. after the transfer of the petitioner from the Kisan College Branch, yet he has



conveniently ignored the position to mechanically uphold the guilt on the basis of the Enquiry Officer's report. In my opinion, this undisputed position where the advisory regarding fixation of target was received in the Kisan College Branch only in July, 2013 i.e. after the transfer of the petitioner from the Branch, this by itself is sufficient to remove the foundation for the charge set up at item nos. 1 and 3 of charge memo regarding exceeding the target.

The matter could have been serious if the results of disbursement were disastrous and the petitioner by his acts would have put the Bank in financial crisis. Such is not the position here and while it is the specific stand of the petitioner in his reply that the loans disbursed were genuine and were earning interest for the Bank, this stand has not been contested by the Bank. In my opinion, the allegation set up against the petitioner of disbursement of loan in excess of the target fixed in the aforementioned circumstances, is incapable of being upheld.

This bring this Court to the other allegation set up against the petitioner which is that the petitioner financed only six trades/activities with ulterior motive. In my opinion, even when the petitioner is being charged of acting with ulterior motives, there is no such specific instance given as to the beneficiaries of such motivated action. The response of the petitioner stands noted and he



has mentioned that these loan proposals were genuine and on being satisfied on the viability of business activities that the loans were disbursed. The statement of the petitioner has not been contested by the respondents. Clearly the allegation is ill-founded and is not supported with any evidence of default or any evidence of favoritism. In the circumstances, even the other charge set up against the petitioner is incapable of being upheld as it is unsupported with evidence.

The judgments relied upon by Mr. Sinha to defend the action complained of by the petitioner are founded on sound principles and there cannot any dispute about the same. The question is whether at all the opinion expressed by the Supreme Court in the judgment(s) so referred, would apply to the case in hand. There is no dispute that the Bank officials are repositories of public trust and since they deal with the public money they have to come clean on integrity.

In so far as the case in hand is concerned, although serious allegations have been levelled against the petitioner of motivated action and of acting prejudicial to the interest of the Bank in the matter of disbursement of loan accounts, on the target fixed and trade activities but while there is no evidence supporting the allegations that the petitioner acted prejudicial to the interest of the



Bank, it is confirmed that the advisory on target reached the Kisan College Branch, after the transfer of the petitioner with no instance of motivated actions. On the other hand it is the specific stand of the petitioner and not contested that the disbursement of the loan accounts were genuine and were earning profits for the Bank. The allegations lack foundation and the orders impugned reflect complete non-application of mind to the explanation given by the petitioner to the allegations set up against him.

For the reasons aforementioned the order of punishment passed by the Disciplinary Authority dated 3.6.2014 impugned at Annexure-1 together with the order dated 31.12.2014 passed by the Appellate Authority impugned at Annexure-2 cannot be upheld and are accordingly quashed and set aside.

The writ petition is allowed. The consequences shall follow.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	03-10-2016
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