

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6710 of 2013

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Rudra Nand S/O Premanand Ram Resident Of Mohalla- Mahuabag, Jagdeo Path, Patha, P.S. Rupaspur, District- Patna

.... Petitioner/s

Versus

1. The C.M.D. Punjab National Bank, Head Office, New Delhi
2. The General Manager, Personnel And Administrative Division (Selection Cell) Head Office, New Delhi
3. The Circle Head, Circle Office, Hrd Section, Punjab National Bank, Arrah
4. The Chief Manager, Punjab National Bank, Circle Office, Arrah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate.

For the Respondent/s : Mr. Raj Nandan Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 12-04-2016 Heard the counsel for the petitioner and the counsel
for the Bank.

In this case the petitioner has challenged Letter dated 29.10.2012 issued by the Chief Manager, Punjab National Bank, Circle Office, Ara, whereby and whereunder the explanation submitted by the petitioner has been rejected. Again a representation dated 28.12.2012 submitted by the petitioner with regard to using unfair means in connection with the promotional examination has also been rejected by order dated 5th of January, 2013.

The petitioner is an officer of Punjab National Bank in MMG-II Scale, for promotion in MMG Scale-III it was/is necessary to clear the examination. All the nationalized banks

have entrusted the Institute Banking Personnel Selection (IBPS) to conduct the examination for bankers either for appointment or for promotion.

The IBPS had conducted an objective test examination on 13.05.2012 for 150 marks for promotion of the bankers from MMG-II to MMG-III. Total marks for the aforesaid test was 150. The result was published on 28.5.2012 but the result of the petitioner was held up on the basis that the answer sheets of the petitioner and one Ranjeet Kumar Chaubey tallied, indicating both were involved in malpractice, in terms of para 18(h) of promotion policy, the candidature of the petitioner was cancelled. The show cause dated 12.7.2012 was issued sought an explanation from the petitioner pointing out that the Bank has received information from IBPS Bombay that he has adopted unfair means in the examinations.

On 7.12.2012 the petitioner filed his explanation whereby he tried to justify that he was not involved in adopting unfair means. The Chief Manager, Punjab National Bank was not satisfied with the reply and rejected the same. Again the petitioner had filed representation dated 28.12.2012 which has been dealt with by General Manager. The Chief Manager in his letter dated 15.01.2013 placed reliance on Clause 18 (h) of the Circular No.83 of the Promotion policy rejected the claim of promotion from MMG Scale - II to MMG Scale - III, rejected his

representation.

The counsel for the petitioner submits that the report must be followed by a proper enquiry and only then they can be deprived of the promotion and so much so that the orders dated 29.10.2012 as well as 15.01.2013 are completely conflicting order, neither the enquiry was conducted nor orders deals with the objections and grounds were taken by the petitioner in his explanation. He has submitted that order passed by the authority suffers from infirmity, as well as same has been passed in violation of the principle of natural justice. The impugned order takes away the chance of promotion from MMG Scale-II to MMG Scale-III. He has further submitted, in terms of the letter dated 12.07.2012, the authority concerned made allegation against him on the basis of certain assumption and suspicions, not on factual reality. The allegation of detection of the identical wrong answers by the computer may be a coincidence, because the examination was conducted under strict supervision by invigilators present in the examination hall and no such incident was reported in course of test. In the contrast the counsel for the Bank submitted that the IBPS is a recognized body. It conducts the examination of the bankers for appointment and promotion examines the answer book in a very scientific manner. They have developed the skill to find out the persons involved in unfair means and after scientific analysis it gives its report to the bank



In the present case two persons were found involved in unfair means and has been reported to the bank. It has further been submitted that the impugned order does not show on what ground the claim for promotion of the petitioner has been rejected inasmuch as the counsel for the bank could not point out from two orders that objections of the petitioner have been dealt with. The order dated 29.10.2012 is very cryptic order does not show reason in what manner objections raised by the petitioner has been dealt with. The reason is a part and parcel of the natural justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx” it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the order. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party would know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. (2003 (4) S.S.C.364 (C.M.D. United Commercial Bank vs. P.C.Kakkar.)

The counsel for the Bank has fairly submitted objections of petitioner has not been taken into consideration but

submitted even remanding the case will not change the situation, placed reliance on a decision in the case of “Dharampal Satyapal Ltd.Vrs. CCE Sikri ; reported in 2015(8) SCC 529

The Apex Court has said that the order impugned must disclose reason which shows application of mind by the authority who has decided the issue. In view of the aforesaid discussion orders dated 29.10.2012 and 15.01.2013 suffer from illegality and they are quashed.

Accordingly, the Chief Manager is directed to examine the case of the petitioner and pass a reasoned order. However, this Court is not giving any opinion on merit of the case.

With the aforesaid observation this petition is allowed.

(Shivaji Pandey, J)

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