

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15633 of 2008

=====

Anjani Kumar Ghosh, son of Late R. N. Ghosh, resident of Mohalla Babutola, P.O.,
P.S. Town and District- Banka. Petitioner.

Versus

1. The Central Bank of India through its Managing Director, Chander Mukhi, Nariman Point, Mumbai-400021.
 2. Dy. General Manager, Central Bank of India, Maurya Lok Complex, Dak Bunglow Road, Patna-800001.
 3. Assistant General Manager, Central Bank of India, Maurya Lok Complex, Dak Bunglow Road, Patna-800001.
 4. Regional Manager, Central Bank of India, Regional Office, Purnea.
 5. Sri D. D. Pandey, the then Branch Manager, Central Bank of India, Souria Branch, Katihar.
 6. Enquiry Officer-cum-Branch Manager, C.B.I., Khurzal Branch, District-Katihar. Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Raj Kumar Rajesh, Advocate
Mr. Girish Chandra, Advocate
For the Respondent/s : Mr. Ajay Kr. Sinha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioner as well as
learned counsel for the Central Bank of India.

2. The petitioner seeks quashing of the order, dated 29.03.2008, passed by the Regional Manager/Disciplinary Authority, whereby he has inflicted punishment of “dismissal without notice”, which order was also affirmed in appeal vide order, dated 13.02.2009.

3. The petitioner was posted as Head Cashier in Souria Branch in the district of Katihar of Central Bank of India (hereinafter referred to as ‘the Bank’). He was departmentally proceeded for the following charges framed on 18.07.2007:



“(1) Mr. Ghosh gave unauthorized & illegal accommodation to M/S Mahaveer Medico by retaining the cheques for months together sent for collection by up country branches. He has given fabricated information by inserting debit the two cheques for Rs.48024/- and Rs. 38259/- in passbook without having accounted for these cheques banks transaction. This is an act intended to tarnish bank’s image for personal gains affecting severely Bank’s normal working.

(2) Mr. Ghosh gave mischievous and false information with regard to two cheques for Rs.102328/- and Rs.150657/- sent for collection by corporation bank Ahmedabad through CMS Mumbai by entering into the pass book held by M/S Mahaveer Medico on 15/02/2007. In order to cover his misdeeds he deposited cash Rs.250000/- on 07/05/2007 after lapses of three month’s in the C/D a/c Mahaveer Medico and remitted the proceeds to CMS Mumbai in single signature in absence of Branch Manager. Such an unethical and unlawful work of Sri Ghosh is solely intended to utilize Banks fund fraudulently.

(3) Mr. Ghosh has tried to mislead the Bank’s position by giving false information in the pass book which is not the true copy of Bank’s ledger of the same a/c. This is an act done with malafide intention for his personal benefits.

(4) Mr. Ghosh entered fictions credit entry of Rs.12000/- in saving bank a/c no. 2330 Mr. Arjun

Ram on 09/11/2006 without actual accounting for. The transaction on the date. Subsequently on 10/04/2007 Mr. Ghosh deposited the amount in cash to conceal His misdeed committed by him. Thus Sri Ghosh had clear malafied intention to cheat the a/c holder and Bank for his temporary benefits.

(5) Mr. Ghosh has contravened Bank's rules and established norms by accepting cash and granting fake receipts to various deposit a/c holders as well cc a/c holder M.K.Traders and without accounting for these proceeds in the day's Banking transaction fraudulently with malafied intention to defraud the Bank.

(6) Mr. Ghosh forged signature of some a/c holder's maintaining saving a/c and has withdrawn fraudulently (for example- A/C no. 1616, 1820, 78) from these a/c's and at later date he has tried to compensate such a/c holder to conceal his fraud. Thus Sri Ghosh has acted in defiance of Bank's rules and policies in utter disregard with malafied act.

(7) On 06/02/2007, Mr. Ghosh received an amount of Rs. 43100, from one of the our depositor Sri Dinesh Biswas A/C no.2289 HSS a/c and issues receipt but not included in that days transaction. Sri Ghosh Misappropriated the amount and act fraudulently."

4. A supplementary charge-sheet was submitted on 03.10.2007. The petitioner submitted his written statement to the



charge-sheet and supplementary charge-sheet, dated 18.07.2007 and 03.10.2017 respectively, denying the charges. On conclusion of the enquiry, the enquiry officer submitted his report on 26.11.2007. On receipt of the enquiry report, the petitioner was served second show-cause along with the copy of the enquiry report. The petitioner submitted his show-cause reply on 11.03.2008, which is contained in Annexure-15. The disciplinary authority not being satisfied with the enquiry report, passed order of “dismissal without notice” as per the DAP, 2002. Being aggrieved, the petitioner filed an appeal before the appellate authority, which too was rejected on 13.02.2009. Being aggrieved, the petitioner has filed the instant writ application.

5. The petitioner submits that the proceeding was conducted in violation of the principles of natural justice, as he did not get sufficient opportunity to place his defence. He next submits that the charges would not come within the mischief of major charges and as such the punishment of dismissal is harsh and excessive. Learned counsel next submits that he got the copy of the memo of charge belatedly, and as such he could not make effective reply.

6. Counsel for the Bank has justified the impugned actions. He submits that the petitioner received the charge-sheet as well as supplementary charge-sheet in time to which he made his reply on 03.11.2007. In support of his submissions, counsel for the

Bank has relied upon the statements contained in written statements of the petitioner addressed to Regional Manager, Central Bank of India, contained in Annexure-15, at page 88.

7. Learned counsel submits that it would be evident from the enquiry report that the petitioner participated in the enquiry on three of the sittings, on 14.09.2007, 17.09.2007 and 18.09.2007. The petitioner has himself to blame for not choosing to appear on subsequent dates.

8. He next submits that one Management witness, Shri D. D. Pandey, Branch Manager, was examined and 29 documents were produced in support of the charges. He thus submits that the petitioner was given full opportunity to defend his case. He submits that the term “dismissal without notice” does not mean that the petitioner was dismissed without any notice. In fact, the aforesaid terms are used, where a person generally engaged on contract is dismissed with one or two months’ payment, as the case may be, in lieu of notice.

9. I have heard the counsel for the parties. It would appear from the own pleadings of the petitioner that he received charge-sheet as well as supplementary charge-sheet to which he filed his reply. Only after filing of the reply, the enquiry proceeding started. The petitioner also participated in the enquiry proceeding. On

conclusion of the enquiry, he was given an opportunity to make his comments against the adverse findings recorded in the proceeding. In this view of the matter, I am unable to accept the submission of the petitioner that the departmental enquiry was not conducted in accordance with law. In this view of the matter, the challenge to the validity of the proceeding is rejected.

10. The petitioner next submits that virtually both of his kidneys have failed and there is no evidence that he was caught while accepting bribe from any customer. He submits that the allegation that the petitioner did not credit the amount received in the account of the customers is not borne out from record. On these premises, he submits that the quantum of punishment be considered being harsh and excessive.

11. This Court without expressing any opinion would grant one opportunity to the petitioner to file his representation before the appellate authority for consideration of quantum of punishment. In case, a representation is filed, the same would be disposed of within a period of three months from the date of receipt of it.

12. With the aforesaid observation, the writ application stands disposed of

(Samarendra Pratap Singh, J.)

Uday/-

U			
---	--	--	--