

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1007 of 2014

IN

Civil Writ Jurisdiction Case No. 16495 of 2012

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Arvinda Mohun son of Sri Akhauri Jata Shankar Prasad resident of
Mohalla- Samir Takiya Chand, Chaura Road, P.S- Civil Line, Gaya,
District- Gaya.

.... Appellant

Versus

1. The Madhya Bihar Gramin Bank through its Chairman sponsored by Nationalized Punjab National Bank, Head Office, Meena Plaza, South of Museum, Patna.
2. The Chairman, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.
3. The Directors, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.
4. The General Manager, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.
5. The Area Manager, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.
6. The Senior Manager, H.R.D., Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.
7. Mr. K.K. Dwivedi (Presenting Officer), Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna.

.... Respondents

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Appearance :

For the Appellant : Mr. Ajoy Kumar Chakraborty, Advocate
For the Respondents : Mr. Mahesh Narayan Parbat, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 29-01-2016

This is an Intra-Court Appeal against the judgment
and order dated 21.04.2014 passed in C.W.J.C. No. 16495/2012.

The writ petitioner/appellant was compulsorily retired by way of

punishment. He had challenged the same before a Single Judge of this Court unsuccessfully. As in the writ proceedings so before us, learned counsel for the writ petitioner/appellant has raised a very short issue. He has submitted that no sooner the disciplinary proceedings were initiated and Inquiry Officer and Presenting Officer were appointed, by detailed letter, (Annexure-12 series to the writ petition) he had raised serious objection with regard to the Presenting Officer, pointing out that there had been serious differences between the petitioner/appellant and the Presenting Officer from before and he was on inimical terms with him. Various instances with dates were given. He then pointed out that the Presenting Officer was junior to him and the writ petitioner/appellant had even reported against him, and as such, it would not be proper to continue with the disciplinary proceedings with such a Presenting Officer. There being no response from the disciplinary authority, he abstained from the proceeding, which ultimately culminated in punishment of compulsory retirement. Noticing the submission, we had asked for a counter affidavit from Madhya Bihar Gramin Bank in this regard. A counter affidavit has been filed today. In paragraph 12 of the counter affidavit quoted hereunder, there is a clear admission that the writ petitioner/appellant did raise this objection, but what happened to

them and why they were ignored has not been stated.

“12. *The Appellant wrote general letters (reply of letter) to the Enquiry Officer in which he mentioned the biasness and position in seniority of the Presenting Officer as is evident from the Annexure-12 of the writ petition.....*”

Thus, in our view, it stands undisputed that the Presenting Officer was not only junior to the petitioner/appellant, but was inimical to him from before.

That being so, we are of the view that the aforesaid facts are sufficient to vitiate the disciplinary proceedings. It was then urged on behalf of the respondent Bank, that, however, a full opportunity was given by the appellate authority and therefore, deficiency, if any, stood cured at appellate stage.

We are unable to accept the aforesaid submission in view of the judgment of the Apex Court in the case of *Institute of Chartered Accountants of India Vs. L. K. Ratna and others* since reported in *AIR 1987 SC 71*; wherein it has specifically been said that in the matter of disciplinary proceeding, the law is not that an unfair proceeding which has been followed by a fair appellate proceeding would validate all. The law is, a fair



proceeding followed by a fair appeal.

Thus, we have no option but to set aside the order dated 15.02.2011 of the disciplinary authority. The writ petitioner/appellant would thus be entitled to be reinstated in service forthwith. Apart from whatever remuneration he has received for the period he has remained out of service by way of compulsory retirement, he will not receive any further remuneration for that period.

With the aforesaid observation, this appeal is allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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