IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1940 of 2009

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Devendra Kumar Bhanu, son of Late Sita Ram resident of M.I.G. 239 Hanuman Nagar, P.S. Patrakar Nagar, Kankarbangh, Patna presently posted as officer, Madhya Bihar Gramin Bank, P.O. Ashorhi Gola, District Rohtas

.... Petitioner/s

Versus

1. The Chairman Madhya Bihar Gramin Bank (Sponsored by Punjab National) Meena Plaza-South of Patna Museum, Patna-800001
2. The Board of Directors-cum-Appellate Authority, Madhya Bihar Gramin Bank (Sponsored by Punjab National) Meena Plaza, South of Patna Museum, Budha Marg, Patna-800001
3. Enquiry Officer (then Bhojpur Rohtas Gramin Bank H.O. Ara) Madhya Bihar Gramin Bank Meena Plaza-South of Patna Museum, Patna-800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suman Kumar Jha, Adv.
Mr. Manoj Kumar Sinha, Adv.
Mr. Ajay Kumar Sinha, Adv.
Mr. Manju Jha, Adv.

For the Respondent/s : Mr. Sunil Kumar Singh 1, Adv.
Mr. R.R. Upadhyay, Adv.
Mr. Devi Das Srivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-11-2016

Heard Mr. Ajay Kumar Sinha, learned counsel for the petitioner and Mr. R.R. Upadhyay, learned counsel appearing for the Gramin Bank and its functionaries.

With the consent of the parties, the writ petition has been heard at the stage of admission with the view to its final disposal.

The petitioner is aggrieved by the order dated 26.9.2008 of the Appellate Authority- Board of Directors as communicated vide Memo No. 392 dated 8.11.2008 whereby the petitioner was informed regarding the dismissal of his appeal, a copy of which communication is impugned at Annexure-6 and which dismissal of appeal confirms the order of punishment imposed on the petitioner of reduction of 2 increments in the time scale of pay passed by the Disciplinary Authority vide order dated 12.5.2007 impugned at Annexure-4 to the writ petition. The chargeshet enclosed at Annexure-1 dated 6.9.2005 charges the petitioner on 10 counts of abusing his position as a Branch Manager of the Bank in the matter of disbursement of loans.

In sum and substance, the allegation against the petitioner is of not following the rules and guidelines of the Bank in disbursement of loans rather recklessly disbursing loan without ensuring the viability of the projects for which the loans were being disturbed.

Whereas Charge No.1 has 10 Sub-charges for alleged violation of the prescribed rules and procedures in disbursement of loans, Charge No.2 makes similar allegation against the petitioner of sanctioning loan without getting approval from the headquarters. The charges led to an enquiry, the report of which is present at Annexure-3 upholding the charges. The Disciplinary Authority by a discussed order dealing with each of the charges, has proceeded to impose the penalty of reduction of two increments in the time scale of pay, a copy of which order passed on 12.5.2007 by the Disciplinary Authority is impugned at Annexure-4 and which order of penalty is affirmed by the Appellate Authority being the Board of Directors of the Bank when the statutory appeal of the petitioner was dismissed on 26.9.2008. The petitioner feeling aggrieved is before this Court.

Mr. Sinha learned counsel for the petitioner has questioned the proceedings concluding in the orders impugned, on the following grounds:

(a) The chargesheet does not refer to the document which forms the basis for the charges.

(b) The relevant documents was not supplied to the petitioner thus prejudicing him in filing purposeful reply and in defending his case.

(c) The order of the Appellate Authority is without reasons and does not reflect application of mind; and

(d) Though the charges relate to the functioning of the petitioner as a Branch Manager of the Bhojpur Rohtas Gramin Bank which subsequently merged within the Madhya Bihar Gramin Bank but there is no discussion as to the exercise of jurisdiction by the Disciplinary Authority upon merger of the Bank(s) especially where the chargesheet was drawn by the Bhojpur, Rohtas Gramin Bank.

The arguments of Mr. Sinha has been contested by Mr. Upadhyay learned counsel for the Bank who submits that the petitioner holding a responsible post of a Branch Manager, has been utterly reckless in disbursement of loans and has thrown the rules and regulations of the Banks to the winds causing serious prejudice to the Bank. He submits that the chargesheet itself discusses the foundation and the material on which it is based and the petitioner was given all opportunity to examine the documents and thus he was not prejudiced in any manner in filing his reply and defending his case. It is further submitted that the order of the Disciplinary Authority is a discussed order dealing with each of the issues raised and the Disciplinary Authority has been rather lenient in imposition of penalty, though the charges were very serious. It is submitted that the Appellate Authority agreeing with the finding of the Disciplinary Authority no infirmity can be found in the appellate order.

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

As I have observed at the outset, there are two main charges against the petitioner and while Charge No.1 relates to abuse of position as a Branch Manager of the Bank in the matter of disbursement of loans without confirming and satisfying himself as to the viability of the projects and contains 10 Sub-charges, Charge No.2 is an independent charge in relation to sanction of loan without obtaining the approval of the headquarters. Comprehensively, the allegations leveled reflect abuse of position by the petitioner in the matter of disbursement of loans which was found de hors the rules governing the Bank. Though the order of the Disciplinary Authority is a detailed order discussing the defence raised by the petitioner in his written statement, the Appellate Authority has affirmed this view in absence of any fresh issue raised by the petitioner wanting an independent discussion. Even before this Court, the petitioner has failed to demonstrate as to which of the issue(s) raised by him before the appellate authority required a discussion and has not been dealt with. Though an endeavour was made by Mr. Sinha in reference to the appellate order to seek a remand of the matter but in my opinion not every affirmation of an order requires a remand for being reasoned unless it is demonstrated to the satisfaction of this Court that any of the issues raised did not find an answer in the order of the appellate authority. A simple criticism of an appellate order which does not run in to many words, does not require a mechanical remand unless the issues raised, has been ignored for reiteration of a position which already exists.

The other issues raised by Mr. Singh regarding non-supply of documents, definitely merits consideration but then a cursory glace on the chargesheet present at Annexure-1 would show that all details of the loans, are present and discussed in the chargesheet itself. The enquiry report also mentions that opportunity of inspection was granted to the petitioner. Now there is nothing on record to show that on inspection, the petitioner having discovered any material which was not in conformity with the charges leveled against, demanded any document but was refused and not provided with. In fact, the writ petition is absolutely silent whether any demand was made by the petitioner for supply of any document which would have shown that the 10 sub-charges forming Charge No.1 as well as the charge No.2, was contrary to the evidence on record.

Considering that the chargesheet itself discusses the materials on which it is founded and the petitioner though being granted permission of inspection of the records, he never chose to demand any document which would have put a question mark on the charges leveled against him, the objection raised is a clear afterthought. Even though the law on the issue of supply of document is well settled but in absence of any demand made by the petitioner, for supply of any document, the principles so settled, would not apply to the issue raised by the petitioner,

The third issue raised by Mr. Sinha is that the merger of the Bank(s), would invalidate the proceedings initiated prior to merger, in absence of statutory rules, saving the proceedings. The objection in my opinion, is only taken to be rejected for all actions initiated prior to merger are taken over by the successor bank upon merger and would stand saved unless the provisions make any prohibition. No statutory prohibition has been shown by learned counsel to this effect.

Having considered the issues raised by Mr. Sinha on merits, I am not persuaded to interfere with the orders impugned which suffer no infirmity. The petitioner should be thankful for having been let of with the minimum damage. No cause for indulgence is made.

The writ petition is dismissed.

(Jyoti Saran, J)

Bibhash/-

AFR	
CAV DATE	
Uploading Date	10.12.16
Transmission Date	