

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15308 of 2004

=====

Raj Kishore Sinha, son of Sri Saryu Sharma Sinha (Ex-Manager, Punjab National Bank, R.M.O., Patna) resident of village and P.O. Suitha, P.S. Parsa Bazar, District Patna presently residing at D/115, Peoples Co-operative Colony, Kankarbagh, P.S. Kankarbagh, District

.... Petitioner/s

Versus

1. Punjab National Bank through its Chairman cum Managing Director H/o 7, Bhikhaji Cama Place, New Delhi-66
2. The Chairman cum Managing Director, Punjab National Bank, H/o- 7, Bhikhaji Cama Place, New Delhi-66
3. The Executive Director/Reviewing Authority, Punjab National Bank, H/o-7, Bhikhaji Cama Place, New Delhi-66
4. The General Manager/Appellate Authority, HRD Division, Punjab National Bank, H/o-7, Bhikhaji Cama Place, New Delhi-66
5. The Zonal Manager/Disciplinary Authority, Punjab National Bank, Zonal Office, Chankya Place, R Block, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahendra Pd. Bhartee, Adv.
Mr. Sunil Kumar III, Adv.

For the Respondent/s : Mr. Sunil Kumar Singh I, Adv.
Mr. Prashant Vedasan, Adv.
Mr. Subhash Chandra Bose, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-09-2016

Heard Mr. Mahendra Prasad Bhartee, learned counsel for the petitioner and Mr. Prashant Vedasan learned counsel for the Punjab National Bank.

With the consent of the parties, the writ petition is being heard for final disposal at the stage of admission itself.

The petitioner is aggrieved by the order dated 21.10.2002 passed by the respondent Zonal Manager-cum-Disciplinary Authority, Punjab National Bank whereby a penalty of dismissal from service



has been imposed on the petitioner and which order has been affirmed in appeal by the General Manager-cum-Appellate Authority vide order dated 15.11.2002, dismissing the appeal. A review filed by the petitioner has again been dismissed by the Executive Director-cum-Reviewing Authority vide order passed on 21.4.2015. The orders are impugned at Annexures 1 to 3 respectively.

The petitioner happens to be the Branch Manager of the Sampatchak Branch of the Punjab National Bank in the town and district of Patna and was charged with some others of conniving to grant benefit to a firm in the name of M/s Sabeya Agency by forging documents. The charge led to filing of a criminal case arising from R.C. Case No. 15 of 1987 registered under the provisions of the Prevention of Corruption Act, 1988 and which has resulted in a conviction of the petitioner and other accused. A copy of the judgment is on record vide Annexure-5A to the writ petition. The petitioner filed an appeal against the judgment and order of the trial court and in so far as the petitioner is concerned, the conviction of the petitioner has been upheld even in appeal. It is in consideration of the nature of the dispute raised that by order passed on 22.4.2008 this matter was directed to be posted after disposal of Criminal Appeal No.454 of 2002 filed by the petitioner along with one another accused Shiv Nandan Sahay Srivastava.



As I have observed above, the Criminal Appeal No.454 of 2002 in so far as the petitioner is concerned, has been dismissed while it stands allowed in so far as the other accused Shiv Nandan Sahay Srivastava is concerned. The judgment and order of the trial court dated 17.8.2002 is the basis for passing the order of dismissal by the appellate authority in exercise of powers vested under Regulation 11 of the Punjab National Bank Officer Employees (Discipline and Appeal) Regulations, 1997 (hereinafter referred to as the 'Regulation') which runs as under:-

Clause -11 “special procedure in certain cases notwithstanding any thing contained in Regulation 6 or Regulation 7 or Regulation 8, the Disciplinary Authority may impose any of the penalties specified in Rule 4 if the officer employee has been convicted on a criminal charge, or on the strength of facts or conclusive arrived at by a judicial trial.

Provided that the officer employee may be given an opportunity of making representation on the penalty to be imposed before any order is made.”

Paragraph 9 of the counter affidavit reflects that a show cause was served on the petitioner on 26.8.2002 to represent against the proposed penalty in view of the judgment of conviction passed by the trial court. The petitioner responded to the show cause notice and which is followed by the order of dismissal impugned at Annexure-1 which is affirmed by the appellate authority as well as the reviewing authority.



Mr. Bharti learned counsel appearing for the petitioner while admitting to the fact situation where the judgment of conviction passed by the trial court stands confirmed in appeal by this Court when the appeal so preferred by the petitioner along with another co-accused, has been dismissed in so far as the present petitioner is concerned, has chosen to restrict his argument to the quantum of punishment and for the purpose he relies upon the orders of removal passed in the case of the employee Shiv Nandan Sahay Srivastava present at Annexure-8 and Ajay Kumar Sinha present at Annexure-9 to the writ petition, whereunder these employees for the same charge were visited with the penalty of removal with the benefit of drawing post retiral benefits. On the other hand the petitioner was visited with the penalty of dismissal thus forfeiting his right to draw the retiral benefits as well as a disqualification from any future employment.

The submission of Mr. Bharti has been contested by Mr. Vedsan in reference to the position explained at paragraphs 6, 18 and 19 to submit that it is the gravity of the misconduct by the delinquent concerned which determines the penalty and since in the present case, the petitioner happened to be the Branch Manager of the concerned Branch while the two employees referred to by Mr. Bharti namely Shiv Nandan Sahay Srivastava and Ajay Kumar Sinha were Clerk-cum-Cashier of the said Bank that the disciplinary authority has

chosen to impose different punishment of dismissal for the petitioner while ordering for removal of the other employees.

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

In view of the confirmation of the charges by the trial court as affirmed by the appellate court, the petitioner cannot escape the liability of a punishment in view of the stipulations present at Clause 11 of the Regulations. It is perhaps being conscious of this position that Mr. Bharti rightly chose to question the punishment on its quantum and for which he compares the punishment imposed on the petitioner with those imposed on the Clerk-cum-Cashier in the Branch office referred to above.

In my opinion, the attempt made by Mr. Bharti would not draw any fruitful result for the petitioner because the nature of duty discharged by the employee concerned, has a strong bearing on the determination of the nature of misconduct as well as in determination of penalty qua the charge framed. In so far as the present case is concerned, considering that the petitioner held the post of a Branch Manager at the relevant time, he cannot feign ignorance to the illegalities and any irregularity in the Branch of such nature, could not have been carried out without his tacit approval. Execution of such acts which breeds corruption has to be under at the dictates of the

Branch Manager and the petitioner holding such post of Branch Manager, he cannot equate himself with the role discharged by the Clerk cum Cashiers who were merely the pawns in executing the conspiracy hatched by the petitioner, may be in connivance with some others.

For the reasons discussed, no cause for indulgence is made out for interfering with the penalty imposed. The writ petition is dismissed accordingly.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.9.16
Transmission Date	