IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.50 of 2016

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Akhil Kishore Prasad Singh Son of Late Ram Bachhan Singh, R/o Mohalla - Adarsh Bihar Colony, Rukunpura, P.S. Rupaspur, District - Patna.

.... Petitioner

Versus

1. The Central Bank of India through its Field General Manager, Zonal Office, maurya Lok Complex, P.S. Kotwali, District - Patna.
2. The Field General Manager, Central Bank of India, Zonal Office, maurya Lok Complex, P.S. - Kotwali, District - Patna.
3. The Deputy General Manager, Central Bank of India, Zonal Office, Maurya Lok Complex, P.S. - Kotwali, District -Patna.
4. The Regional Manager, Central Bank of India, Regional Office Maurya Lok Compelx, Patna, P.S. Kotwali, District - Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Ambastha, Adv.
Mr. Rajesh Kumar Singh, Adv.

For the Respondent/s : Mr. Ajay Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

CAV JUDGMENT

Date: 02-12-2016

By this writ petition filed under Article 226 of the Constitution of India, the petitioner prays for quashing of the order dated 9.6.2015 passed by the Appellate Authority cum Deputy General Manager, Central Bank of India, Zonal Office, Patna, impugned at Annexure 12, whereby the statutory appeal filed by the petitioner has been dismissed and the punishment awarded to the petitioner by the Disciplinary Authority cum Regional Manager in his order dated 30.12.2014 impugned at Annexure 9, has been confirmed. By the orders impugned, the petitioner has been visited with penalty of reduction of two stages in the time scale of pay until his retirement on 31.5.2015, with further direction that he would not earn increment of pay during the period of such reduction and on expiry of the period, the reduction would have the effect of postponing future increments of his pay.

The facts of the case briefly stated is that the petitioner while holding the post of Manager, Nawadah Branch of Central Bank of India, was served with the Memo dated 26.12.2013, a copy of which is annexed at Annexure 1 to the writ petition, asking him to submit his explanation to the acts of omission and commission listed at Item No. 1 to 8 of the Memo during his posting as Assistant Manager, Asansol Branch of Central Bank of India. The charges primarily revolved around extending Cash Credit facility to different business houses and/ or not following the prescribed procedure. The petitioner submitted his explanation on 27.1.2014, vide Annexure 2, and practically accepted the default by submitting that he had simply obeyed the directions of the Branch Manager, Sri Som Nath Mukherjee, who had assured him that he had processed and satisfied himself to the necessary requirements. Not being satisfied a formal Memorandum of Charges was served on the petitioner on 3.3.2014 requiring him to submit his defence, a copy of which is present at Annexure 3, meaning thereby, the disciplinary proceeding was initiated against the petitioner. The Article of Charges and imputation of misconduct revolved around eight defaults which finds mentioned in Annexure 1. The petitioner filed his reply accepting that he only obeyed the instruction of the Branch Manager. The Enquiry Officer cum Senior Manager submitted his report vide Annexure 6 on 17.11.2014 upholding some of the charges while exonerating the petitioner of others. In his conclusive observation, the Enquiry Officer has attributed lack of knowledge by the petitioner in the Credit Department but no malafide intention accompanying default. The disciplinary authority considered the explanation submitted by the petitioner in response to the opinion of the Enquiry Officer, vide Annexure 8, and the order of the disciplinary authority is present at Annexure 9. The disciplinary authority while accepting the opinion of the Enquiry Officer has imposed separate punishments for the charges upheld but cumulatively, the petitioner has been imposed penalty of reduction of two stages in the time scale of pay until his retirement with further direction that he would not earn increments of pay during this period and such reduction will have the effect of postponing future increments of his pay. The penalty apparently under section 4(f) of the Central Bank of India Officer Employees' (D & A) Regulation, 1976 is a major penalty. The petitioner preferred statutory appeal, vide Annexure 11 and which has been dismissed by the Appellate Authority vide order passed on 9.6.2015, impugned at

Annexure 12. The petitioner feeling aggrieved is before this Court.

Mr. Binod Kumar Ambastha has appeared for the petitioner while the Central Bank of India is represented by Mr. Ajay Kumar Sinha.

While Mr. Ambastha, learned counsel appearing on behalf of the petitioner, has submitted that the charges are based on no evidence and that no document supporting charges were supplied to the petitioner and which has vitiated the disciplinary proceeding, it is the argument of Mr. Sinha, learned counsel appearing for the Bank, that once the petitioner has admitted to the guilt, whatsoever be the nature of objections raised, stands diluted. Mr. Ambastha, learned counsel, has referred to the judgment of the Supreme Court reported in (2015)8 SCC 461 (**Bilaspur Raipur Kshetriya Gramin Bank & anr. v. Madanlal Tandon**) to submit that non-supply of the documents, which are foundation for the charges, has been held fatal for upholding the disciplinary proceeding. Learned counsel has also referred to another judgment of the Supreme Court arising from Civil Appeal No. 3233 of 2005 (**State Bank of India & ors. v. Ranjit Kumar Chakraborty & anr.**) to submit that denial of proper hearing violates principles of natural justice and renders the proceedings bad in law.

On the other hand, Mr. Ajay Kumar Sinha, learned counsel appearing for the Bank, has relied upon the judgment of the Supreme Court reported in (1996)9 SCC 69 (**Disciplinary Authority cum Regional Manager & ors. v. Nikunja Bihari Patnaik**) and with particular reference to paragraph 7 of the judgment he has submitted that the Officers and employees of the Bank are required to maintain utmost integrity as well as to abide by the statutory Rules and procedure and any default therein is sufficient to invite a punishment. He has submitted that once the petitioner has admitted to the lapse, then there is no escape from the punishment, which is most reasonable considering the serious nature of allegations.

I have heard learned counsel for the parties and have perused the records. The charge memo present at Annexure 3 lists no less than eight charges against the petitioner and which are rather serious. It relates to extending credit facilities to different business houses and clearly the petitioner has defaulted in maintaining prescribed procedure. No doubt, the Enquiry Officer while considering the allegations has bifurcated the charges into sub-charges and while he has upheld some of the sub-charges, he has exonerated the petitioner of others as is manifest from the report present at Annexure 6. The Enquiry Officer while expressing his opinion on the charges setup against the petitioner has concluded by submitting that mistakes committed by the petitioner are general in nature and due to lack of his knowledge in the Credit Department. He also mentions that the default reflects negligence which is not accompanied with malafide intention. In other words, the Enquiry Officer while upholding the charges has attributed it to the lack of knowledge on the part of the petitioner in regard to following the prescribed procedure while extending credit facility. The Disciplinary Authority has accepted the finding of the Enquiry Officer on the charges in toto and it is in consideration of the opinion of the Enquiry Officer on the allegations that he has imposed penalty as against each of the charge separately, which is manifest from his order present at Annexure 9, which also accompanies detailed order passed by the Disciplinary Authority. The Disciplinary Authority on assessment of the charges and the punishment imposed on the petitioner for individual charges, has consolidated it to a punishment of reduction of two stages to remain operative until superannuation of the petitioner having an effect of postponing future increments.

In my opinion the single instance, which wrests the right vested in the petitioner to question the orders of punishment, is reflected from his answers and present in the reply filed by the petitioner before the Disciplinary Authority in response to the Enquiry Officer's report, which is enclosed at Annexure 4 and admission of the petitioner in the opening paragraph of his reply that he has only obeyed the instructions of the Branch Manager and followed the guidelines received time to time by the higher authority, by itself is sufficient to uphold the punishment. For once the guilt is admitted then the petitioner cannot raise any objections as against the disciplinary proceedings.

The judgment rendered in the case of **Nikunja Bihari Patnaik** (supra) relied by Mr. Sinha in paragraph 7 takes notice of Regulation 3 of the Regulation in question, which is reproduced in paragraph 6 of the judgment and requires every Officer employee of the Central Bank of India to take all possible steps to protect the interest of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. It further requires the officer/ employee to maintain good conduct and discipline and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him. Breach of Regulation 3 is held to be 'misconduct' within the meaning of Regulation 24.

The statutory provisions underlying Regulations 3 and 24 when considered in the background of admission made by the petitioner, it only confirms his act of omission to maintain utmost discipline and to protect the interest of the Bank and his failure to do so, is sufficient ground for imposition of penalty in question. Whether such acts of omission of the petitioner has resulted in loss or not and whether it was plain case of negligence due to lack of knowledge in the Credit Department, cannot be a ground to exonerate the petitioner of the charges because Officers and employees of the Bank are repository of public faith and they deal with public money and thus, even a slight breach in abiding by the prescribed procedure, is sufficient to invite a penalty and considering that no less than eight allegations have been setup against the petitioner in extending credit facilities to different business houses, in my opinion, the disciplinary authority has been rather generous in letting off of the petitioner with the penalty under challenge.

No cause for indulgence is made out to interfere with the order of penalty passed against the petitioner and put to challenge in the writ petition, which is, dismissed, accordingly.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
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