IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17475 of 2013

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Anil Sah, son of Sri Ram Bilash Sah, resident of Village- Samana, P.O. Hasanpur, P.S.- Khanpur, District- Samastipur (Bihar)

.... Petitioners

Versus

1. The Union of India through the Secretary, Department of Finance, Govt. of India, New Delhi
2. The General Manager, Bank of Baroda, Zonal Office, 5th Floor, Ginni Motor, Boring Canal Road, Patna
3. The Executive Director, Bank of Baroda, Corporate Centre, C/26, C-Block, Bandra Kurla Complex, Mumbai- 400051
4. The Inquiry Officer, Senior Branch Manager, Bank of Baroda, Paharpur Branch, District- Muzaffarpur at Present Posted at Sitamarhi Branch, Sitamarhi (Bihar)

.... Respondents

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Appearance :

For the Petitioner : Mr. Pushkar Narain Shahi, Sr. Advocate.
Mr. Manish Kumar No.2, Advocate.

For the Resp. Nos. 2, 3 & 4: Mr. Nishi Nath Ojha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-07-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing/modifying the order dated 02.02.2013 passed by the punishing authority and the order dated 08.07.2013 passed by the Appellate Authority.

3. The short facts of the case according to the petitioner are that while working in the capacity of acting Branch Manager from 22.03.2010 to 13.07.2010, he allegedly committed certain irregularities

as pointed out in the show cause notice dated 15.09.2011 (Annexure-4), *inter alia*, such as passing and authorizing certain entries to the debit of G/L Sundry Deposit General and crediting the amounts to his Savings Accounts, in all aggregating to Rs. 27,337/-. In response to letter no. 549 dated 15.09.2011, he submitted his explanation admitting having committed the said irregularities which was however wholly *bona fide* and in extenuating circumstances. Admittedly, the petitioner had reversed all the entries amounting to Rs. 27,337/- on 24.05.2011 for credit of G/L Sundry Deposit Account and debiting his Savings Account.

4. Mr. Pushkar Narain Shahi, learned Senior Counsel appearing on behalf of the petitioner, submits that the respondent Bank ought to have considered the petitioner's case in its proper perspective and considering that the entire amount of Rs. 27,337/- had been reversed prior to detection by the Bank, the punishment of compulsory retirement meted out to the petitioner is unduly harsh and out of proportion. Reliance is placed on a decision of the Apex court reported in *Lucknow K. Gramin Bank (Now Allahabad U.P. Gramin Bank) & Anr. vs. Rajendra Singh, 2013 A.I.R. SCW 4731*, wherein, *inter alia*, it was observed that pleading for lenient view would justify lesser punishment.

5. Learned counsel for the respondent Bank, on the other hand, opposes the writ petition submitting that the punishment

awarded to the petitioner is commensurate with the misconduct committed by the petitioner. It is submitted that the relationship of an employer and employee is based on mutual faith and trust, more particularly so in the case of a Bank, and the nature of the misconduct involving financial irregularity on the part of the petitioner fully justifies the punishment of compulsory retirement. He relies on the decisions of the Apex Court reported in *Chief Executive Officer, Krishna District Cooperative Central Bank Ltd. and Anr. vs. K. Hanumantha Rao and Anr., 2017(1) PLJR 172* and *Karnataka Bank Ltd. Vs. A.L. Mohan Rao, (2006) 1 SCC 63*.

6. It is well settled that this Court does not sit in Appeal over the decision of the disciplinary authority and will not interfere except if the punishment is so disproportionately harsh as to shock the conscience of the Court. Be that as it may, it would appear that the petitioner has a remedy by filing a review against the impugned order in terms of Regulations 18 of the Bank of Baroda Officer Employees' (Discipline and Appeal) Regulations, 1976, which has not been availed of by the petitioner.

7. This Court is thus not inclined to enter into the merits of the matter in view of the aforesaid remedy of review available to the petitioner. The writ petition stands disposed of with liberty to the petitioner to approach the concerned authority for review of the impugned order. If any review application is filed within a period of

three weeks from today, the same shall be considered and disposed of after grant of opportunity of hearing to the petitioner in accordance with law and without being influenced by any of the observations contained hereinabove.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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