

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1129 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 5829 of 2008**

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Zahiruddin Khan, son of Jalil Khan, resident of at Baranpura, P.O. and P.S. Khaira,
District - Chappra (Saran), Bihar

.... Appellant/s

Versus

1. The State Bank of India, through its Chairman, Head Office, Mumbai
2. The Deputy General Manager - cum - Appellate Authority, State Bank of India,
Zonal Office, Jubba Sahani Park, P.O. Club Road, Ramna, Muzaffarpur
3. The Assistant General Manager - cum - Disciplinary Authority, Region V,
Zonal Office, Jubba Sahani Park, P.O. Club Road, Ramna, Muzaffarpur
4. The Enquiry Officer, Region V, Zonal Office, Jubba Sahani Park, P.O. Club
Road, Ramna, Muzaffarpur
5. The Branch Manager, Sadhwalia Branch, State Bank of India, District -
Gopalganj

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Akashdeep, Advocate

For the Respondent/s : Mrs. Namrata Mishra, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 04-05-2017**

Seeking exception to an order passed by the learned
Writ Court on 24.06.2014 in C.W.J.C. No. 5829 of 2008, this appeal
has been filed under Clause 10 of the Letters Patent.



2. Records indicate that the appellant herein was working in the State Bank of India at the relevant time after his appointment as a Clerk-cum-Cashier in the year 1986. He was placed under suspension on 01.08.1995 and thereafter a charge memo was issued to him on 15.09.1999 imputing 9 allegations with regard to various irregularities and misconducts committed by him during the period 1994-95. In all, nine imputation of misconducts were levelled against him and these misconduct levelled pertain to making improper withdrawal from Savings Bank Account fraudulently, making credit entries in Savings Bank Account and various acts of commission and omission in dealing with Savings Bank Account of various accountholders. In the departmental inquiry conducted, out of the 9 charges, Charges No. 1,3,5 and 9 were found to be partly proved and charges No. 2,4,6, 7 and 8 were not found as proved. Charge No. 1 pertain to withdrawal of Rs. 25,000/- from the Savings Bank Account of one Smt. Basanti Kumari and thereafter not posting the said withdrawal in the said account and also permitting the withdrawal in a fraudulent manner inspite of there being no sufficient balance. This act was found to be misappropriation of the entire amount and exposing the bank for financial loss. Charge No. 3 again pertains to withdrawal from a Savings Bank Account of one Brijlal Harijan to the tune of Rs. 16,000/- but instead of showing the entry as



Rs. 16,000/- it was shown in a different manner. Similarly, Charge No. 5 also pertains to four withdrawal of Rs. 10,000/- from the Savings Bank Account of one Smt. Arpati Devi and Charge No. 9 was with regard to withdrawal of Rs. 3,000/- from the account of one Devi Prasad Singh and overdrawal of certain amount from the account.

3. Initially after conducting an inquiry, punishment of dismissal from service was imposed upon the petitioner. However, on a writ petition being filed before this Court being C.W.J.C. No. 12645 of 2002 the learned Writ Court came to the conclusion that the dismissal seems to be harsh and excessive and remanded the matter back for reconsideration. After reconsideration, the punishment was converted to one of discharge from service under Paragraph 521(5)(e) of the Sastry Award and challenging the said punishment and further contending that this punishment is also too harsh and in the order passed no reason is given for imposing this punishment also, the writ petition was filed. The Writ Court found that now keeping in view the nature of allegations made and the action taken by the disciplinary authority, no further indulgence into the matter is called for. Finding not infirmity the writ petition was dismissed and now, this appeal is filed contending that reconsideration with regard to imposition of punishment has not been properly made.



4. It is a well settled principle of law that taking disciplinary action and imposing of punishment is a departmental action undertaken by the Disciplinary Authorities after evaluating various aspects of the matter pertaining to the nature of misconduct committed. Normally a Writ Court is not under law empowered to interfere into the question of imposition of penalty until and unless in the matter of imposing the punishment action is found to be taken in a manner which is contrary to law or shocks the conscience of the Court. Imposition of a penalty is a discretion of the Disciplinary Authority and on account of the fact that the quantum of punishment is on the higher side interference cannot be made by the Court until and unless the punishment is shown to be highly disproportionate beyond the concept of a prudent man approach and it is in the rarest of rare case where the question of punishment can be subjected to judicial review. This is the principle of law laid down by the Supreme Court in various cases, namely, **Deputy Commissioner, Kendriya Vidyalaya Sangathan and others Vs. J. Hussain- (2013) 10 SCC 106**, **S.R. Tewari Vs. Union of India and another- (2013) 6 SCC 602** and **Life Insurance Corporation of India and others Vs. S. Vasanthi- (2014) 9 SCC 315** and in the light of the aforesaid legal principle, if the case of the present appellant is evaluated, we see no reason to make any interference into the matter. The Disciplinary



Authority having already taken action in the matter, it is not a fit case where any further indulgence into the matter can be made by this Court.

5. Accordingly, finding no ground, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

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