

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11400 of 2015

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1. Mohan Kumar Singh Son of Balmukund Singh resident of Village - Jagdev Path,
Bailey Road, Sarswati Biha Colony, P.S. Shastri Nagar, District - Patna

.... Petitioner

Versus

1. The Chief Manager (H. R. D.) Central Bank of India, Hanuman Resources
Department (BMK), Central Bank of India, Patna.

2. The Regional Manager Central Bank of India, Regional Office, Patna.

3. Assistant General Manager, Regional Office, Patna (A.P.P. Authority).

4. Inquiry Officer/Manager Regional Office, Patna. Respondents

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Appearance :

For the Petitioner : Mr. Kameshwar Singh, Adv.

For the Respondents : Mr. Ajay Kumar Sinha, Counsel, CBI

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 15-09-2017

Heard both sides.

2. The petitioner, herein, prayed to quash the Resolution, dated 26.05.2015, by which the disciplinary authority dismissed the petitioner from service and prayed to quash the consequent order, dated 02.07.2015, passed by the appellate authority also confirmed the order of dismissal whereby the appellate authority of the petitioner.

3. The petitioner, while posted as S.W.O.(B), SSB, Frazer Road (Central Bank of India), Regional Office, Patna, was asked to show cause with regard to his acts of sexual harassments to a female officer, Miss Alka Sinha, on her telephone and also assaulted her in the Bank premises of Central Bank of India, Ilahibagh Branch. The show cause of the petitioner was found unsatisfactory and, thereafter, the petitioner was served with memos of charges on 11.01.2015. The petitioner, Mohan Kumar Singh, indulged in acts of sexual harassments against woman officer, Miss Alka Sinha, at her workplace by making sexually coloured remarks and unwelcome verbal conduct of a sexual nature over phones. It is stated that the petitioner was posted at SSB, Patna, he obtained the



mobile number of Branch Manager, Miss Alka Sinha, and frequently used to telephone her for sexual harassments. Even though she forbade him, the petitioner continued to pester with persistent telephone calls to her with malafide intention of causing sexual harassments since last year. The petitioner, further, charged to remain unauthorizedly absent on 01.10.2014 from SSB, Frazer Road Branch, Central Bank of India causing problems in the functioning of the SSB, Patna, and that amounts to gross misconduct. Mohan Kumar Singh was indulged in riotous act on the premises of Bank on 01.10.2014 at 10.30 A.M. with Alka Sinha, Branch Manager of Ilahibagh Bagh, and brutally assaulted her with iron rod causing grievous head injury and when she fell down, the petitioner is alleged to have indiscriminately assaulted her. The act of the petitioner amount to gross misconduct under Clause 5(j) of the D.A.P.

4. The petitioner filed his show cause. The enquiry officer found the petitioner guilty on all the charges.

5. The disciplinary authority, on receipt of the enquiry report, asked show cause and vide order, dated 26th May, 2015, dismissed the petitioner from his services.

6. The petitioner filed appeal and the same was also dismissed vide order, dated 02.07.2015, as contained in Annexure 18.

7. Mr. Kameshwar Singh, the learned counsel for the petitioner submits that the petitioner and the allegationist were good friends. Miss Alka Sinha gave in writing her bio-date to the petitioner for searching bridegroom, but, later on she made false charge at the instance of the officers of the Union of the Bank. On 01.10.2014, the petitioner had gone to the Ilahibagh Branch of Central Bank of India to have consultation with one Anand Kumar, the petitioner found the Branch Manager (Miss Alka Sinha) lying on the ground after falling from stairs. The petitioner came to know that Branch Manager (Miss Alka Sinha) have some altercation with the customers for distribution of



loans and opening of passbook, but, later on Miss Alka Sinha changed her version and falsely implicated the petitioner for which Gopalpur P.S. Case No. 128 of 2014 was registered under Sections 323, 324, 354, 504 and 307 of the Indian Penal Code.

8. The learned counsel for the petitioner, further, submits that during the course of departmental enquiry none of the independent witnesses, save and except Miss Alka Sinha, was examined and the charge of sexual harassments has not, at all, been proved, but, the petitioner has been illegally dismissed. It is, further, submitted that the petitioner was put on trial in Sessions Trial No. 802 of 2015 arising out of Gopalpur P.S. Case No. 128 of 2014 by the Additional Sessions Judge, I, Patna, and the petitioner has been exonerated as none of the prosecution witnesses turned-up to support the case and the petitioner has honourably been acquitted in the criminal case, but, he has illegally been dismissed from service and the appellate authority also did not look into the illegality and dismissed the appeal of the petitioner.

9. On the other hand, Mr. Ajay Kumar Sinha, the learned counsel of the Central Bank of India submits that four witnesses were examined as a management witnesses, including the victim, Miss Alka Sinha, and many documentary evidences were produced. During the course of departmental proceeding sufficient opportunity was given to the delinquent employee. The petitioner has not been able to point out any irregularity or illegality committed during the departmental proceeding and the finding of dismissal does not suffer from any illegality.

10. The writ Court has got limited jurisdiction to look into the concurrent finding of the disciplinary authority as well as the appellate authority. The writ Court can not re-appraise or look into the sufficiency or insufficiency of the evidence on which the finding is based.

11. Mr. Ajay Kumar Sinha, the learned counsel for the



respondents, further, submits that the occurrence of assault took place at Ilahibagh Branch of Central Bank of India. The petitioner was apprehended at the spot. The petitioner had taken defence that he had gone to Ilahibagh Branch to have consultation with Anand Kumar. Anand Kumar, the Assistant Manager, Central bank of India was examined as management witness no. 1 and he categorically stated that on the date of occurrence he was on leave. He had no talk or consultation with the petitioner on the date of occurrence or prior to that occurrence. The victim-lady witness has categorically stated that the petitioner used to torture her on telephone and by sending her message. It is, further, submitted that the acquittal of the petitioner is not based on evidence. The Court recorded the finding of acquittal of the petitioner on the ground that no witness has been examined. There is nothing on record to show that the summons or non-bailable warrant of arrest issued against the witnesses was duly served on the witnesses. Therefore, it can not be said that the petitioner has honourably been acquitted from the criminal charge. The criminal charge relates to one incident, which happened on 01.10.2014 with regard to assault on Miss Alka Sinha at about 10.30 A.M. inside the Bank premises, but, the petitioner is also charged with to sexually harass Miss Alka Sinha and when she stopped to talk and attend the call of the petitioner, the petitioner went to her Branch and assaulted her. Therefore, the order of punishment does not require any inference.

12. Having considered the submission of both the sides and on perusal of the records, I find no force in the submission of the learned counsel for the petitioner and the same is not acceptable.

13, The petitioner was charged for his acts and unbecoming behaviours arising to sexually harass a lady officer of the Bank. The lady officer stopped attending his calls, then, the petitioner went to the Illahibagh Branch of the Bank, where the lady officer was posted as



Branch Manager and brutally assaulted the lady officer on 01.10.2014. The police, on being informed, came and arrested the petitioner from there.

14. Only one of the charge was with regard to assault on the lady officer for which Gopalpur P.S. Case No. 128 of 2014 was registered. The enquiry officer found all the charges proved against the petitioner. The disciplinary authority asked the show cause from the petitioner, but, the petitioner could not be able to show irregularity in the proceeding and any illegality in the finding of the enquiry officer. Consequently, the disciplinary authority dismissed the petitioner from the services. The learned counsel for the petitioner could not be able to show any illegality in the order of disciplinary authority and the appellate authority.

15. It has been submitted that the petitioner was acquitted in the criminal case and, therefore, the order of dismissal is not sustainable and it has also been submitted that the punishment is disproportionate of the charge.

16. I do not find any force in the submission as the criminal case was lodged for one incident in which the petitioner was alleged to have brutally assaulted the lady officer inside the premises of the Bank. During the enquiry, besides the lady officer-victim of the ill-behaviour of the petitioner, other witnesses were also examined and many documents were produced to prove the charges that the petitioner sexually harassed the lady officer of the Bank by repeatedly calling her on telephone and sending her message and photograph amounting to sexual harassment. On the basis of overwhelming material, the enquiry officer found the petitioner guilty. In the criminal case the petitioner was acquitted only because the prosecution could not be able to examine any witness. The acts of the petitioner towards the lady officer amount to gross misconduct and, therefore, I find that the punishment is



also not disproportionate to charge.

17. Having considered the facts, aforesaid, I do not find any merit in this writ petition. Accordingly, the same is **dismissed**.

(Prabhat Kumar Jha, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.09.2017
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