

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1201 of 2014
IN
Civil Writ Jurisdiction Case No. 343 of 2014**

- =====
1. The Multi State Cooperative Land Development Bank Limited, Bihar - Jharkhand, Budh Marg, Patna - 1 through its Chairman.
 2. The Chairman, Multi State Cooperative Land Development Bank Ltd. Bihar - Jharkhand, Budh Marg, Patna - 1.
 3. The Managing Director, The Multi State Cooperative Land Development Bank Ltd. Budh Marg, Patna - 1.
 4. The Chief Vigilance Officer, Multi State Cooperative Land Development Bank Ltd. Budh Marg, Patna - 1.
 5. Director Finance Cum Enquiry Officer, Multi State Cooperative Land Development Bank Ltd. Budh Marg, Patna - 1.

.... Appellants

Versus

Anil Kumar Singh Son of Sri Bhrigunath Singh Resident of Village - Gopalpur, P.S. - Nayagaon, District - Chapra (Saran).

.... Respondent

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Appearance :

For the Appellants : Mr. Y.V. Giri, Sr. Advocate
Mr. Rajesh Prasad Choudhary, Advocate
For the Respondents : Mr. Naresh Chandra Verma, Advocate
Mr. Natraj Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 26-04-2017

The Multi State Co-operative Land Development Bank, Patna for the State of Bihar and Jharkhand are appellants under the Letters Patent Appeal.

2. The challenge is to the order dated 07.04.2014, which has been passed by learned Single Judge allowing the writ application of the private respondent and quashing the order of punishment on the ground that the allegation,



so made, do not constitute misconduct.

3. Since there were three set of charges which formed the basis for initiation of a departmental proceeding, and as a consequence thereof, order of punishment of removal, which was subsequently modified in appeal was passed. Therefore, the Court would like to reproduce the three charges for ready reference : -

I. *The petitioner did not take any interest in the work of recovery of loan during the financial year 2010-11.*

II. *The recovery against loan during the month of June was zero as against the fixed target of Rs. 0.50 thousand.*

III. *He did not submit any explanation to the show cause issued by the Chief Vigilance Officer of the Bank for loan recovery being made during the period of July 2010 to May 2011.*

4. The Court has gone through the above allegation or the insinuation which formed the basis for the enquiry and fails to understand as to what error the learned Single Judge has committed in coming to an opinion that the charges do not constitute 'misconduct'. The Court was willing to reconsider the decision of learned Single Judge provided the Bank could produce their Service



Regulation which could reflect that non-performance or failure to achieve the target of recovery of loan amounts to misconduct. The word 'misconduct' was considered by Hon'ble Apex Court and learned Single Judge did take note of the decision of Apex Court in the case of **Ravi Yashwant Bhoir Vs. Collector** since reported in **(2012) 4 SCC 407**; where the Hon'ble Apex Court in paragraph 18 of the Judgment has observed as under : -

"18. The expression "misconduct" has to be understood as a transgression of some established and definite rule of action, a forbidden act, unlawful behavior, willful in character. It may be synonymous as misdemeanor in propriety and mismanagement. In a particular case, negligence or carelessness may also be a misconduct for example, when a watchman leaves his duty and goes to watch cinema, though there may be no theft or loss to the institution but leaving the place of duty itself amounts to misconduct. It may be more serious in case of disciplinary forces."

5. Since under performance or non-performance in reaching the target of recovery of loan has not been shown to be one of the grounds, which can be labeled or termed as misconduct. Since misconduct is an expression, which has higher connotation and significance in service jurisprudence, therefore, not every allegation can be



allowed to be treated as misconduct by an employer and give them a free hand to deal with an employee according to their whims and fancies.

6. The learned Single Judge, therefore, has rightly set aside the order of punishment holding that the allegations, *prima facie*, do not come within the ambit of misconduct, and allowed the writ application, which, in the opinion of this Court, is not an erroneous view in law to take.

7. Thus, we find no merit in this appeal. This appeal is, accordingly, dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Rajeev/**AFR**

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