

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1396 of 2016

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Ratish Chandra Karn, S/o- Late Baidyanath Lal Das, resident of Village- Kanakpur,
P.S.- Jhanjharpur, District- Madhubani

.... Appellant/s

Versus

1. The State Bank of India through its Chief General Manager, Local Head Office, J.C. Road, Patna
2. The Chief General Manager, Local Head Office, J.C. Road, Patna
3. The Deputy General Manager, State Bank of India, Zonal Office, Muzaffarpur
4. The Assistant General Manager, Region IV, State Bank of India, Zonal Office, Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mrs. Renu Jha, Advocate

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

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 01-05-2017

Seeking exception to an order dated 4.11.2015 passed by the learned Writ Court in C.W.J.C. No.11140 of 1998, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was working as a Clerk-cum-Typist in the State Bank of India. After appointment in the year 1967 was promoted from time to time and in the year 1994 at the relevant time when the impugned departmental action was taken, was posted as the Officer-in-Charge of a Branch in district- Madhubani. On 24.12.1994, the petitioner was placed under suspension and thereafter a charge-sheet was issued to the petitioner and a detailed departmental enquiry was held in the matter of three allegations



levelled against the petitioner. The first allegation was that petitioner has fraudulently helped in withdrawing a sum of Rs.1,95,000/- from a savings bank account. The second allegation was that petitioner has committed fraudulent withdrawals through 72 transactions amount to Rs.4,69,400/- and the third allegation was that petitioner facilitated opening of unauthorized accounts without verification of signature of the account holder, thereby facilitating various illegalities. A detailed departmental enquiry was held. The Enquiry Officer submitted its report on 10.2.1998 and vide order dated 18.4.1998 petitioner was dismissed from service. Appeal filed by the petitioner was also rejected by the appellate authority on 10.7.1998 and, therefore, challenging the departmental action undertaken, the writ petition was filed. The same having been dismissed, this appeal.

It is seen from the detailed order passed by the writ Court that on two grounds the impugned action was challenged before the writ Court. The first was that subsistence allowance under the Shastri/Desai Award was not paid and, therefore, reasonable opportunity of defence in the enquiry was denied to the petitioner. It was also said that as the petitioner was also facing a criminal case, the enquiry could not be held. The learned Writ Court in para 9 detailed the aforesaid questions and answered them against the petitioner.

Even though learned counsel for the petitioner tried to



argue that in the enquiry proper opportunity of defence was not accorded to the petitioner, but no specific violation of any rule, regulation or the principle of natural justice in the matter of conduct of the departmental enquiry was argued or pleaded before us. On the contrary, it was tried to be indicated that subsistence allowance was not paid to the petitioner as per the requirement of law. The learned Writ Court took note of various aspects of the matter and found that the petitioner was awarded 1/3rd of pay as subsistence allowance for the three months. Thereafter 50% of the pay was paid as the subsistence allowance. However, after one year even though there was a provision for payment of full pay and allowance, but in view of Clause 5(a)(iii) of the bipartite settlement as a criminal case was pending, it was found that the petitioner was not entitled to full pay and was only entitled to subsistence allowance at the rate of 50%. Therefore, taking note of the law laid down by the Hon'ble Supreme Court in various cases pertaining to conduct of departmental enquiry and criminal cases simultaneously, the second ground was rejected. That apart, we find from para 16 onwards of the learned Writ Court's order that the petitioner participated in the departmental enquiry between 4.9.1997 to 11.12.1997 and thereafter with effect from 23.12.1997 both the petitioner and his defence counsel withdrew from the enquiry without assigning any reason and, therefore, the enquiry officer proceeded with the enquiry *ex parte*



and submitted the report. The learned Writ Court in the detailed order passed in the writ petition has analyzed all aspects of the matter and has found that no case for interference is made out on the grounds canvassed.

We find no error committed by the learned Writ Court in doing the same. The only ground canvassed before us was that non-grant of subsistence allowance renders the enquiry vitiated, but we find that subsistence allowance in accordance to the terms and conditions of employment was granted to the petitioner. The petitioner has been found guilty of various acts, as are detailed in the charge-sheet and narrated by us in para-2 and once a reasonable finding is recorded by the enquiry officer, holding the petitioner guilty of these charges, we see no reason to make any indulgence into the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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