

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5916 of 2003

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Lala Prasad Singh son of Late Amrikh Singh, resident of Village Sultanpur, P.S. Rahui, District Nalanda, at present residing at Bhikhari Lal Lane, Gumti No.2, Bikhanpur, P.S. Kotwali Chowk, P.O. Bhagalpur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Registrar Cooperative Societies, Bihar, Patna.
3. The Bhagalpur District Cooperative Central Cooperative Bank Ltd., Bhagalpur, through its Managing Director.
4. The Administrator, Bhagalpur District Central Cooperative Bank Ltd., Bhagalpur.
5. The Managing Director, Bhagalpur District Central Cooperative Bank Ltd., Bhagalpur.
6. The Assistant Registrar, Cooperative Societies, Naugachia Circle, Bhagalpur cum Conducting Officer.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Jha, Adv.

Mr. Rajesh Kumar Verma

For the Respondent/s : Mr. Jitendra Kumar, AC to AAG-14

For the Respondent Nos. 3 & 5: Mr. Rakesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 06-02-2018

The short facts of the case are that the petitioner was appointed as Assistant in the year 1973 at Bhagalpur Central Cooperative Bank. The petitioner was promoted to the post of Assistant Manager in the year 1988. On 8.9.1989 a report was submitted regarding misappropriation of a sum of Rs. 1,12,000/- from Naugachia Vyapar Mandal Sahyog Samiti Ltd., pursuant whereof, a show cause notice dated 19.9.1989 was issued against the petitioner herein and then another show cause notice dated 6.9.1989 was also



issued to the petitioner herein. The petitioner is stated to have been put under suspension by an order dated 24.8.1991. Thereafter, a departmental proceeding was initiated and charge sheet was issued to the petitioner on 27.2.1992 primarily on the charge of insubordination i.e. disbursing loan to the members of the Cooperative Societies without consent of the higher authority and misappropriating a sum of Rs. 1,12,000/- on account of there being short-stock of manure. The petitioner is stated to have demanded some documents and it is the allegation of the petitioner herein that the documents were not supplied to him.

2. In the meantime, an Award Case No. 15 of 1990 was instituted against the petitioner herein and one another by the Naugachia Vyapar Mandal Sahyog Samiti Ltd. and recovery of a sum of Rs. 1,12,000/- was sought to be made on the ground that short supply of manure was detected and since the petitioner herein and one another, namely, Kamleshwar Kishor Sinha were the custodian of the lock and key of the Bank, it was apparent that the said persons had misappropriated the amount pertaining to the short- stock by selling the manure in the market. In the said Award dated 7.9.1992, the Presiding Officer found that the petitioner was responsible for the short stock of manure. The petitioner had then filed Appeal No. 24 of 1992 against the order dated 7.9.1992, which was allowed by the



appellate authority by an order dated 26.8.1993 on the ground that the petitioner was not responsible for the short- stocks and the persons responsible for the same was the aforesaid Kamleshwar Kishor Sinha.

3. Simultaneously, a Surcharge Case No. 5 of 1991 was also filed by the District Audit Officer on the allegation that the petitioner has un-authorizedly sanctioned loan to the members of the Tulsipur Fal-Sabji Utpadak Sahyog Samiti and the said loan had not been realized. However, during the course of proceeding it was found that the persons to whom the loan was advanced were repaying the said amount, hence the surcharge case as against the petitioner herein was dismissed.

4. In the meantime, the Enquiry Officer submitted an enquiry report dated 17.10.1992, finding the charges levelled against the petitioner to have been proved. Thereafter, the Disciplinary authority issued a show cause notice to the petitioner which is dated 10.09.1993 and the petitioner submitted his reply dated 24.9.1993 denying all the allegations against him as also challenging the validity of the enquiry report. The Administrator, Bhagalpur Central Cooperative Bank Ltd., the Disciplinary Authority in the present case, passed an order of punishment dated 9.4.1994 by which the petitioner was demoted from the post of Assistant Manager to the post of Assistant in lower grade and a recovery of Rs. 1,12,000/- was sought



to be made firstly on the head of the unauthorized loan disbursed by the petitioner herein and secondly on the head of short-stock of manure. The petitioner herein had challenged the said order dated 9.4.1994 before the Registrar, Cooperative Society, Bihar, Patna, however, the said appeal was dismissed by an order dated 4.4.2003.

5. The aforesaid two orders dated 9.4.1994 and 4.4.2003 respectively are under challenge in the present writ petition.

6. I have heard the learned counsel for the parties. It has been stated by the learned counsel for the Bhagalpur Central Cooperative Bank Ltd. that since the award case and surcharge case have failed against the petitioner herein and the amount of loan has also been recovered as well as since the liability in the award case was fixed on another person, the Bank does not have any objection if the said punishment order, to the extent recovery is sought to be made is set aside. It has been submitted that the rest of the order may not be interfered with. The learned counsel for the petitioner submits that in view of the death of the original petitioner and the present situation, he does not want to pursue the matter, however, recovery order be quashed and directions be given to pay the consequential benefits to the petitioner herein, who is the widow of the deceased employee.

7. In view of the consent amongst the parties, I deem it fit and proper to modify the punishment order dated 9.4.1994 and the



appellate order dated 4.4.2003 to the extent that no recovery shall be made from the petitioner herein and if any recovery has been made, then the same shall be refunded to the petitioner forthwith. It is further directed that all the outstanding consequential benefits pursuant to passing of the punishment order and the appellate order shall be paid to the widow of the deceased employee i.e. the petitioner herein within a period of six weeks from today.

8. In view of the aforesaid, the present writ petition is disposed of.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.02.2018
Transmission Date	

