IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.985 of 2017
In
Civil Writ Jurisdiction Case No.1438 of 2012

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1. Madhya Bihar Gramin Bank through the Chairman, Head Office, Meena Plaza, South of Museum, Patna-1.
2. The Chairman, Madhya Bihar Gramin Bank, H.O. Meena Plaza, South of Museum, Patna-1
3. The Regional Development Manager, MBGB, Controlling Office, Biharsharif, Patna
4. Bagish Prasad Mishra (Inquiry Officer) Senior Manager, Amhara Branch, PS. Bihta, PS. Amhara, Distt.Patna.
5. The Director Cum the Chairman of the Appellate Board of Madhya Bihar Gramin Bank, Patna 800001

... ... Appellant/s

Versus

Kedar Prasad Mehta, S/o late Bodh Ram Mahto, Branch Manager, Madhya Bihar Gramin Bank Branch Bain, PO & PS Bain & Distt. Nalanda, resident of Mohalla Bhasasur, Distt. Nalanda.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Suresh Pd. Singh No. 1
		Ms. Kumari Rashmi
For the Respondent/s	:	Mr. R.K.P. Singh
		Mr. Bal Bhushan Chaudhary

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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 : 30-04-2018

Letters Patent Appeal has been preferred against the order dated 04.04.2017, passed by the learned Single Judge in CWJC No. 1438 of 2012. The Learned Single Judge allowed the writ application, quashed the order of punishment dated 22.07.2011 imposed by the Disciplinary Authority upon the private respondent, who had in turn imposed penalty of reduction of four increments for three years for the so called omission and commission committed by him. This order was further affirmed by the Appellate Authority vide order dated 10.11.2011. Both these orders came to be quashed by the Writ Court.

The background to the initiation of a departmental enquiry against the private respondent related to his failure to take charge of the branch from one Arbind Kumar Sinha who was the Branch Manager of Bargaon Branch which allowed a window of opportunity to the then Branch Manager Arbind Kumar Sinha to sanction fake loans which had a fall out on the interest of the Bank.

On certain inputs, which the head office of the Gramin Bank had about Arbind Kumar Sinha, a transfer order was passed against him asking him to hand over charge immediately with a direction upon the private respondent to take charge forthwith, but it seems that between 24.06.2008 when the order of transfer was issued till 26.06.2008 the private respondent did not or could not take charge and the fake loans were supposed to have been sanctioned during this period. Besides the above, charge of failure to abide by the direction of the head office, the other allegation made was that initially he provided inputs that he was in possession of all the documents but later on it transpired that many a documents were not in his custody, were missing and those documents surfaced only after FIRs were instituted against the former Branch Manager.

The learned Single Judge while going through the factual aspect of the matter in quite a detail in relation to the charges came to a considered opinion that the charges were such which could not be said to come within the ambit of misconduct. It could be a case of failure on the part of the private respondent to rise to the occasion and act promptly which in turn created certain issues for the Bank and allowed the then Branch Manager to misuse his power in sanctioning of certain fake loans. But right through the pleadings and the findings nothing has emerged to show that the private respondent had any complicity, knowledge or was kept in the loop by the former Branch Manger in his wheeling-dealing in relation to sanction of the loan. The Court, therefore, having taken note of the several decisions of the Hon'ble Apex Court like the case of Union of India vs. J. Ahmed reported in (1979) 2 SCC 286 as well as the case of State of Punjab vs Ram Singh reported in AIR 1992 SC 2188 concluded as under :

> *"My discussions above would confirm that it is basically the alleged failure of the petitioner to come up to the expectations of the superiors which has landed him in the trouble to invite the punishment because the steps taken by him are the steps which any officer on duty would*

have taken to take over the charge and even if it has not given the desired result yet certainly such charge cannot be construed as the misconduct for being proceeded departmentally nor can be a foundation to invite a punishment even of a minor nature."

No doubt, learned counsel for the Bank did put up a very forceful argument seeking a direction from the Bank that the Disciplinary Authority be given at least a window of opportunity to reconsider the matter, may be even on the quantum of punishment, but quashing the entire proceeding as well as the order of punishment will have a detrimental effect on the effective administration and control over the employees of the Bank as well as it may send a wrong message to such persons.

Looking at the nature of the facts, the argument of the Bank does not enthuse us in the present case to interfere with the order of the learned Single Judge. If it was a case where the order of punishment or the disciplinary proceeding was interfered due to certain omission or failure to comply with any procedure or violation of natural justice, this Court would have surely remanded the matter back for fresh consideration from the point of violation. However, since a definitive conclusion has been reached by the learned Single Judge that the nature of charges do not amount to misconduct which necessitated holding of a departmental proceeding or imposition of punishment which by and large we also agree to, no order over and above what has been passed by the learned Single Judge is required to be passed or observed.

Even otherwise we are convinced that the private respondent has been punished enough since he has undergone the agony of the departmental enquiry and proceeding as well as battle which he had to fight legally to shake off the punishment which was imposed upon him. In our opinion, it is enough message to him and the employees of his like to be careful in future.

In totality, the impugned order dated 04.04.2017 is not required to be interfered with. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02.05.2018
Transmission Date	NA