

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3636 of 2014

=====

Muneshwar Prasad, Ex-Branch Manager, Bank Of India, Jehanabad Branch, Son Of
Late Harihar Mahto Resident Of Village- Saren, Police Station- Makhdumpur,
District- Jehanabad

.... Petitioner/s

Versus

1. Bank Of India Through Its Chairman-Cum-Managing Director, H.O. Star House, Bandra Kurla Complex, Bandra (East), Mumbai- 400051
2. General Manager, Bank Of India, H.O. Star House, Bandra Kurla Complex, Bandra (East), Mumbai- 400051
3. Zonal Manager, Patna Zonal Office, Bank Of India, Chanakya Place, R. Block, Patna
4. Assistant General Manager Cum-Dy. General Manager, Bank Of India, Patna Zonal Office, Patna
5. Senior Manager, Bank Of India, Vigilance (East), Kolkata

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Prashant Kashyap, Advocate

For the Respondent/s : Mr. Rupak Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 13-07-2018

Heard counsel for the petitioner and the respondent bank.

2. Under I.A. No. 4615 of 2018, it is prayed that wife of the petitioner may be substituted in place of the original writ petitioner. Original petitioner's wife's name is Chinta Devi. The details are given in paragraph 3 of the Interlocutory Application filed on behalf of the petitioner.

3. This Court would allow the petitioner's prayer for substitution prayed under I.A. No. 4615 of 2018 without any opposition in this respect on the Bank's side.



4. Counsel for the petitioner has submitted that the enquiry against him was conducted under charge memo dated 20.08.2011 which does not disclose the provision under which the misconduct was being enquired into.

5. It is his case that no specific instance of misconduct as provided in the Bank of India Officers Employees (Discipline and Appeal) Rules, 1976 (hereinafter referred to as 'Discipline and Appeal Rules') has been indicated. He has also submitted that the manner in which the charge memo has been issued shows the predetermination of the Disciplinary Authority to proceed against the petitioner for major penalty.

6. It is his submission that evidence on record which was in his favour has not been considered by the Disciplinary Authority as well as by the Appellate Authority. He has also raised one more issue regarding incompetence of the Disciplinary Authority as well as the Appellate Authority who conducted the proceedings against him since the appeal of the petitioner has been decided by the Zonal Manager. It is his submission that the Zonal Manager was not the competent authority to decide his appeal since the charge memo has also been issued by the same authority, i.e., Zonal Manager.

7. Counsel for the respondent Bank has placed on record the decision of the Bank dated 02.05.2012 regarding the same. It has



been submitted that the Assistant General Manager/AGM whose status was Scale V Officer was earlier posted as Zonal Manager at the Zonal Office at Patna. Subsequent to issuance of the said order dated 02.05.2012, in fact the AGM started to be posted as Deputy Zonal Manager.

8. The inherent status of the officer AGM being a scale V officer is relevant for considering the competency of the Disciplinary Authority to proceed against an employee in Scale II such as the petitioner in terms of the extant conduct Rules. Referring to Discipline and Appeal Rules, 1976, it is his submission that higher authority was competent to discharge the duty of Disciplinary Authority and the Appellate Authority. Since it is not the petitioner's case that Dy. Zonal Manager (AGM) was below scale V therefore, petitioner cannot have any grievance regarding the Disciplinary Authority being lower than what is prescribed under Rules, merely because AGM scale V is now being posted as Dy. Zonal Manager and not Zonal Manager. After coming into force of the Bank's decision dated 02.05.2012 regarding posting of officers, the petitioner's Appellate Authority was Zonal Manager. However, the rank and status of the officer being posted as Zonal Manager was higher than AGM Scale V. Thus no issue can be made from the fact that Zonal Manager was functioning as Appellate Authority.



9. Such submission of the respondents takes care of the grievance raised by the petitioner so far as the competence of the Disciplinary Authority and Appellate Authority is concerned. Since even after issuance of order dated 02.05.2012, the Disciplinary Authority continues to be an officer in the Rank of AGM in Scale V, merely because he is posted as Dy. Zonal Manager, will not reduce the inherent rank and status of the officer being AGM in Scale V.

10. As regards the other issue raised, the petitioner submits that he would file a detailed representation raising the aforesaid issues along with mitigating circumstance of the original employee having passed away during pendency of the instant writ petition.

11. So far as his prayer for approaching the reviewing authority with his request for toning down the punishment having regard to the aforesaid illegality, and the mitigating circumstance which has taken place during pendency of the instant proceedings, this Court would grant liberty to the petitioner to approach the Reviewing Authority prescribed under Regulation with comprehensive and detailed claim/representation within a period of two weeks. In case such a review application is filed, the reviewing authority would be obliged to considering the claim of the petitioner and dispose it off by a reasoned and speaking order within a period of eight weeks



thereafter.

12. The writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

