

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6727 of 2014

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Rajeev Kumar @ Rajiv Kumar, Son Of Gajo Paswan, Resident Of Mitra Mandal Colony, Near Arun Rajak, Sai Chak Mohall, P.S.- Beur, District- Patna

.... **Petitioner**

Versus

1. 1. The Madhya Bihar Gramin Bank, Through Its Chairman, Meena Plaza, South Of Museum, Patna- 800001
2. The Chairman, Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum, Patna- 800001
3. Chairman-Cum-Disciplinary Authority, Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum, Patna- 800001
4. Branch Manager, Madhya Bihar Gramin Bank, Paliganj Branch, Bihar
5. Enquiry Officer-Cum-Branch Manager, Madhya Bihar Gramin Bank, Paliganj, Branch, Bihar

.... **Respondents**

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Appearance :

For the Petitioner : Mr. Dr. Binay Kumar Singh, Advocate and
Mr. Raj Kishor Prasad, Advocate

For the bank : Mr. Suresh Prasad Singh No.1, Advocate and
Kumari Rashmi, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 09-08-2018

Heard learned counsel for the petitioner and learned counsel for the Bank.

2. The petitioner has challenged award of punishment of “dismissal which shall ordinarily be disqualification for future employment” dated 30.3.2013, passed by the Disciplinary Authority. Petitioner has also challenged order dated 9.9.2013, passed by the Appellate Board of the respondent bank affirming the aforesaid punishment.

3. The petitioner was served with the charge memo while he was posted as Officiating Manager at Dulhin Bazar branch, Patna. Statement of article of charges and statement of imputation of lapses/irregularity were served upon the petitioner



under communication dated 6.1.2011 (Annexure 3).

4. Essence of the charges against the petitioner is of reckless finance without observing the prescribed norms of finance contained in various circulars issued by the bank and other regulatory authorities. Specific instances were given as to the nature of irregularities/lapses committed by the petitioner. It is alleged that the loans have been sanctioned without proper documentation and without obtaining land possession certificates in some cases, and in some cases loans have been sanctioned to more than one person in the family on basis of the same collaterals. It is also alleged that the petitioner has failed to ensure assets creation against the loans advanced. Memorandum of charges along with the specific instances of violation has been served upon the petitioner. The petitioner has appeared before the Enquiry Officer. Enquiry Report takes note of the entire case set out by the bank as well as by the petitioner in the proceedings. A particular branch manager of one of the branches, Mr. Vijay Kumar Rai has been examined as the Enquiry Officer.

5. It is submitted by learned counsel for the petitioner that the petitioner has not been granted opportunity to cross examine the said branch manager who has deposed against him which is denied by learned counsel for the bank by submitting



that the petitioner has not requested to cross examine Mr. Rai. This Court would also observe that Mr. Rai who was branch manager has only deposed in support of the various departmental circulars and orders prescribing the norms of sanction of loan which departmental circulars and norms are not disputed by the petitioner. Non examination of Mr. Rai, in the facts of the instant case has not caused any prejudice to the petitioner. It is trite law that the principle of Natural Justice is not a straight jacket formulae to be applied everywhere, and when no prejudice has been caused, as in the instant case, the petitioner cannot get any benefit of non cross examination of said Mr. Rai, as the evidence given by him before the Enquiry officer is admitted by the petitioner. The petitioner in fact has contended that whatsoever violation of norms has occurred is due to the pressure to sanction loans by the various officers. He submits that the lapse has not been actuated by any extraneous consideration. This aspect of the matter has been considered by the Enquiry Officer in the Enquiry Report in detail. He has made out specific case against the delinquent/petitioner that he misappropriated the amount in connivance with the borrowers jeopardizing bank's interest resulting in violation of the established norms and procedure for disbursing of loan.

6. This Court would only remind itself of the contours



of the judicial review in the matter of departmental proceeding. The limitation in respect of the departmental enquiry with respect to the judicial review is confined to the decision making process and not to the decision itself. The petitioner's submission that failure to observe the norms should be taken as a human error and not intentional, is of no help to the petitioner. Other submission made by learned counsel for the petitioner is that the petitioner's appeal was considered by a Board of the bank which as per the Rule is comprised of the Chairman who is also the Disciplinary Authority of the petitioner. Although such submission is made but no specific case has been made out whether the Chairman had participated in the Board proceedings where his appeal was considered. Nor has petitioner challenged the rule which prescribes that Board comprising of Chairman is to hear and decide the appeal. The third submission made by the petitioner is that the punishment awarded is shocking to the conscience and is disproportionate to the allegations made in the charge memo. The level of care and discipline required from an employee of the bank, who are custodian of public money have been reiterated by the Courts time and again. The petitioner was officiating manager and the lapses which have been found to be committed by the petitioner are repeated and continuous for a long time in respect of many accounts.



7. In view of the above findings, this Court does not find any merit in the submissions of the petitioner. The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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