

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 18711 of 2013

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Prabhat Kumar Arun S/O Late Devi Dayal Rai Permanent Resident Of Village
Bachari Police Station Piro, District- Bhojpur.

.... Petitioner/s

Versus

1. Uttar Bihar Gramin Bank through Its Chairman, Head Office Kalambagh Road, Muzaffarpur.
2. The Chairman, Uttar Bihar Gramin Bank H.O, Kalambagh Road, Muzaffarpur.
3. The Board of Directors, Uttar Bihar Gramin Bank, Head Office, Kalambagh Road, Muzaffarpur
4. The General Manager, Uttar Bihar Gramin Bank, Head Office Kalambagh Road, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Mahesh Narayan Parbat, Sr Advocate with
M/s V P Srivastava & Praveen Prabhakar, Advs
For the Respondent/s : M/s Prabhakar Jha & Mukund Mohan Jha, Advs

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 15-05-2018

Heard learned Senior Counsel for the petitioner and the
respondent-Bank.

2 It is submitted by the learned Senior Counsel for the petitioner that the entire proceedings up to issuance of the order of punishment by the Disciplinary Authority have been conducted against the petitioner in violation of the Uttar Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010 (for brevity, *Regulations of 2010*). The submission is that the only opportunity where he could have brought the issue to the notice of the Appellate Authority was by filing an appeal. Referring to Annexure 9, it is



submitted that a detailed and elaborate appeal have been filed on behalf of the petitioner on 15.08.2012 under the provisions of Regulation 47 (1) of the Regulations of 2010. The appellate authority's order is dated 08.03.2013 and is Annexure 11 to the writ petition.

3 Perusal of the ten pages order of the Appellate Authority shows that up to the ninth page of the said order, the entire charge memo has been reproduced by the appellate authority. The only order which is passed by the appellate authority in respect of the elaborate appeal filed by the petitioners is as follows:

“... .. The appeal committee also observed that appellant was given all the reasonable opportunity to defend his case and after conducting proper enquiry under the purview of natural justice, service regulation, the IA, has derived the conclusion and found all the charges i e charge No 01, 02, 03, 05, 06, 07, 08, 09, 10, 11, 12 & 13 as proved and charge No 04 as partially proved, which are based on appellants voluntary admission, evidences/exhibits/witnesses produced in the enquiry. The appellant has not submitted any additional point in his appeal, other than points mentioned hereinabove, which could prove him innocent.

In view of the above, appeal committee concurred with the findings and orders of the DA in respect of charges found proved in the enquiry which commensurate with the gravity of the charges proved. The appeal committee did not find any scope to interfere with the findings/punishment derived/awarded by the DA.

As such, appeal committee recommended to uphold the punishment awarded to the appellant Sri Prabhat Kumar Arun, vide DA



order dated 24.07.2012, which may be read as under-”

4 The same shows no consideration of the issues raised by the petitioner. The procedural flaws which the petitioner has alleged in the proceedings before the Enquiry Officer was required to be considered and decided by the appellate authority and for that purpose, the Regulations of 2010 contained the provision of appeal. Such provision has been reduced to an empty formality in view of the nature of the order passed by the appellate authority. The same shows total non-application of mind inasmuch as none of the points have been considered by the appellate authority. The same is only a non-speaking order and does not sub serve the principles of natural justice. The law in this regard is settled inasmuch as the order is to be passed taking into consideration the issues raised and dealing with the same. The same has not been done. The order is to reflect that the Authority has applied its mind and what are the reasons that have weighed before the Authority while considering the appeal.

5 Learned Senior Counsel for the petitioner relies upon the Division Bench judgment of this Court reported in the case of *Hassan Muzahid –Versus- The Bihar State Electricity Board & Ors* (2015 (4) PLJR (HC) 435 wherein, under similar circumstances when the order of the disciplinary authority was passed without considering the ground pleaded by the delinquent employee in his reply to the



second show cause, the same was held to be violative of principles of natural justice. This Court is satisfied that though the stage of consideration is different but the legal position is the same. No doubt the appellate authority was required to give a consideration to the points, raised by the petitioner in the appeal, which as noticed above, has not been done.

6 The appellate order dated 08.03.2013 is, therefore, quashed. The matter is remanded to the appellate authority. It is expected that as a result of the remand before the appellate authority, the issue would be decided by a reasoned and speaking order in accordance with law dealing with the issues raised by the petitioner.

7 Let the appeal be decided within a period of three months from the date of receipt/production of a copy of this order.

8 Needless to say that if the Regulations of 2010 provide for an opportunity of personal hearing, the same has to be provided by the appellate authority.

9 This writ petition is disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2018
Transmission Date	NA

