

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1659 of 2013

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Kunti Devi W/O Late Harinarayan Singh(Before Adoption), S/O Late Butan Singh(After Adoption) R/O Vill-Rajmal Pirari, P.O.-Phakuli, Distt-Saran(Ex-Head Cashier) B/10, Bhagwan Bazar Branch (Cbi)Chapra

... .. Petitioner/s

Versus

1. The Chairman Cum Managing Director, Central Bank Of India, Central Office, Chandramukhi Nariman Point, Mumbai-400021
2. The Zonal Manager Cum Appellate Authority/A.G.M.Central Bank Of India, Zonal Office, Muzaffarpur
3. The Regional Manager Cum Disciplinary Authority, Central Bank Of India, Regional Office, Siwan
4. Shri R.P.Sharma, Vigilance Officer, Central Bank Of India, Zonal Office, Muzaffarpur
5. Shri B.N.Jha Enquiry Officer, Assistant Regional Manager(C.B.I.), Regional Bazar Branch, C.B.I., Chapra

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5565 of 2011

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Raghubar Dayal Singh, s/o Late Harinarayan Singh (Before Adoption) and son of late Butan Singh (After Adoption) resident of village-Rajmal Pirori, P.O. Phakuli, District Saran (Ex-Head Cashier, B/10 Bhagwan Bazar Branch(CBI), Chapra.

... .. Petitioner/s

Versus

- 1.The Chairman cum Managing Director, Central Bank of India, Central Office, Chandramukhi, Nariman Point, Mumbai-400021.
- 2.The Zonal Manager cum Appellate Authority, Central Bank of India, Zonal Office, Muzaffarpur.
- 3.The Regional Manager cum Disciplinary Authority, Central Bank of India, Regional Office, Siwan.
- 4.Shri R.P. Sharma, Vigilance Officer, Central Bank of India, Zonal Office, Muzaffarpur.
5. Shri B.N. Jha, Enquiry Officer, Assistant Regional Manager,(CBI), Regional Office, Siwan.
- 6.The Branch Manager, Bhagwan Bazar Branch, C.B.I. Chapra.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 1659 of 2013)

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Adv

For the Respondent/s : Mr. Ajay Kumar Sinha, Adv

(In Civil Writ Jurisdiction Case No. 5565 of 2011)

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Adv



For the Respondent/s : Mr. Ajay Kumar Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 21-06-2018

Heard learned counsel for the parties.

2. This writ petition under Article 226 of the Constitution of India has been filed for quashing the order of punishment dated 20.11.2008 passed by Regional Manager, Central Bank of India as well as order dated 26.06.2011 passed by the Appellate Authority by which the husband of the petitioner was dismissed from service.

3. Briefly stated, the facts of the case is that the petitioner's husband was appointed as Sub-Staff in Central Bank of India in 1973. He was promoted on the post of Cashier after enhanced qualification and attaining required length of service.

4. After 33 years of service of husband of petitioner on 20.10.2006, a complaint was made by one Sheo Jee Singh before the Bank that husband of the petitioner had obtained employment in the Bank on the basis of false information of date of birth and educational qualification.

5. The complaint made against the petitioner was enquired by the Vigilance Department of Bank and found to be true and as such a charge memo dated 16.06.2007 along with list



of documents and witnesses were served upon the husband of petitioner.

6. The husband of the petitioner late Raghubir Dayal Singh was chargesheeted vide memo of charge dated 16.06.2007 for false statement made by him in the document pertaining to his employment in respect of his academic qualification as also in respect of his date of birth and name of school from where he passed 7th Class which amounts to gross misconduct under para 19.5(m) of bipartite settlement.

7. A departmental enquiry was conducted giving the employee full opportunity to defend himself and the Enquiry Officer on the basis of materials and witnesses produced during enquiry found the charges to be proved against deceased employee.

8. The enquiry report was sent to the deceased employee to submit his reply against the finding of Enquiry Officer and delinquent submitted his reply against the finding of Enquiry Officer and the same was considered by the Disciplinary Authority and after considering the reply of delinquent, the Disciplinary Authority passed an order dated 03.10.2008 proposing penalty of dismissal and to submit his reply against the proposed punishment and a personal hearing was also granted to the delinquent



employee and after hearing the Disciplinary Authority passed an order of punishment of dismissal from service without notice by order dated 20.11.2008.

9. The appeal preferred by the delinquent employee was also dismissed by the Appellate Authority by his order dated 20.07.2011. The delinquent employee died on 27.01.2012 during pendency of previous writ petition.

10. Allegation against the delinquent employee Raghubir Dayal Singh was that he declared his academic qualification as 7th Class pass at the time of his employment in the Bank as office Peon as 25.03.1949 in his application for employment in the Bank and also submitted an attested copy of School Transfer Certificate dated 24.04.1971, issued by Middle School, Dariyapur and based upon said certificate and declaration he was appointed as office Peon on 15.02.1974.

11. Complaint was made against Raghubir Dayal Singh that he passed 7th Class from Gandhi Vidyalaya, Daulatganj, Chapra and admitted himself to Class-VIII at Adarsh Janata Ucch Vidyayalya, Naini in the year 1956 and passed matriculation examination in the year 1960 (Annual) from said School where his date of birth was recorded as 22.01.1944, as such he made a false



declaration about his date of birth and academic qualification at the time of employment.

12. The enquiry proceeding started against delinquent on 17.08.2007 and concluded on 27.02.2008. The management examined three witnesses and eight documents in support of charge. The complaint made against delinquent that his real name Raghubar Singh s/o Hari Nandan Singh Village-Chatara P.S. Jalalpur District-Saran and he was admitted to Adarsh Janata Ucch Vidyalaya, Naini in the year 1956 at admission Serial No. 46 and his date of birth recorded is 22.01.1944 and he passed matriculation examination in 1960 (Annual) in 3rd Division. He obtained a fake School Transfer Certificate from Madhyamik Vidyalaya, Dariyapur as Ragubar Dayal Singh s/o Butan Singh of Village-Rajmanpirari P.S. Revelganj District-Saran showing date of birth as 25.03.1949 and thereafter passed matriculation examination in 1st Division from High School, Andar, Siwan in the year 1988.

13. Allegation against delinquent was that both the certificates belong to same person and Raghubar Dayal Singh and Raghubar Singh is one and the same person. After considering the evidence on record, the Enquiry Officer found the charges to be proved and submitted his enquiry report to the Disciplinary



Authority and the Disciplinary Authority after meticulously considering the enquiry report and reply of petitioner against the finding of enquiry Officer as well as considering and appreciating the evidences on record held that charges against the petitioner stands proved and passed an order of dismissal from service. The appeal preferred by the petitioner against the order of dismissal passed by the Disciplinary Authority was considered by the Appellate Authority and dismissed by a reasoned and speaking order dated 27.06.2011.

14. It has been submitted by the counsel for the respondent that the order of the appellate authority was received by the husband of the petitioner on 09.08.2011 which was not challenged by him and later he died on 27.01.2012. As such, it is submitted that the writ petition CWJC NO. 5565 of 2011 became infructuous and the writ petition CWJC No. 1659 of 2013 too is thus not maintainable either since the husband of the petitioner did not choose to contest the order of appellate authority while he was alive.

15. Earlier husband of the petitioner had filed CWJC NO. 5565 of 2011 against the order passed by the Disciplinary Authority without availing the statutory appeal against the order of Disciplinary Authority and by order dated 27.06.2011, the



Appellate Authority dismissed the appeal of the petitioner which was brought by filing I.A. No. 9541 of 2016 for amending the writ petition. During the pendency of writ petition the husband of the petitioner died on 27.01.2012 leaving behind widow of the petitioner and other legal heirs. However, from record of CWJC No. 5565 of 2011, it appears that no order was passed on the I.A. petitions. Petitioner thereafter challenged both the orders passed by the departmental authorities by filing present writ petition. Petitioner being widow of deceased employee has every right to challenge the adverse order passed against her late husband, as such present writ is maintainable on behalf of widow of deceased employee.

16. This Court in its judicial review of departmental proceeding orders cannot sit as Appellate Authority against the findings and orders of departmental authorities unless and until the order is based on no evidence or is perverse. In the case of ***State Bank of India & Jaipur v. Nemi Chand Nalwaya***, since reported in (2011) 4 SCC 584, the Apex Court has held as follows:-

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such



findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.”

17. Lastly it has been argued by the counsel for the petitioner that the punishment imposed is too harsh and disproportionate to the gravity of offence. The High Court under judicial review cannot interfere with the quantum of punishment unless and until it is shown that the punishment imposed is shocking to the conscience of the Court. The Apex Court in the case of *B.C. Chaturvedi v. Union of India* since reported in (1995) 6 SCC 749 has held as follows:-

“18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”



18. In present case both the Disciplinary Authority as well as Appellate Authority have considered the case of petitioner as well as department in a fair and objective manner and after due consideration has passed a reasoned and speaking order, as such the orders passed does not require any interference by this Court and accordingly, writ petitions are dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
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