

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15735 of 2011

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MUKESH CHANDRA VERMA S/O LATE HARISH CHANDRA R/O
SANDALPUR, P.S.- KASIM BAZAR, MUNGER - 811201

... .. Petitioner/s

Versus

1. THE BIHAR KSHETRIYA GRAMIN BANK, MUNGER
2. THE CHAIRMAN, BIHAR KSHETRIYA GRAMIN BANK, MUNGER
3. THE GENERAL MANAGER, BIHAR KSHETRIYA GRAMIN BANK,
MUNGER
4. THE GENERAL MANAGER (VIGILANCE) BIHAR KSHETRIYA
GRAMIN BANK, MUNGER
5. THE REGIONAL MANAGER BIHAR KSHETRIYA GRAMIN BANK,
REGIONAL OFFICER, BHAGALPUR
6. THE REGIONAL MANAGER BIHAR KSHETRIYA GRAMIN BANK,
REGIONAL OFFICE, LAKHISARAI
7. THE BRANCH MANAGER, BIHAR KSHETRIYA GRAMIN BANK, MAI
DARIAPUR BRANCH

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajan Ghoshrahe, Advocate
For the Respondent/s : Mr Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 22-11-2018

IA No 5129 of 2016 has been filed for substitution of the wife/widow of the petitioner in place of the original writ petitioner as it is submitted that the original writ petitioner died on 26.03.2016.

2 Prayer for substitution is not opposed by the learned counsel for the Bank.

3 IA No 5129 of 2016 stands allowed.



4 The husband of the petitioner was a Branch Manager of Mai Dariapur Branch, Uraïn of the respondent-Bank. During his tenure as Branch Manager in the said Bank, it is alleged that he had committed some irregularities in the matter of disbursement of loan contrary to the instructions of the Bank. Four charges were framed against him and charge memo was issued along with the statement of allegations. The charge memo is dated 02.09.2009. The petitioner was proceeded against departmentally and the Disciplinary Authority found Charges 1, 3 and 4 to be proved. Charge No 2, alleging extension of cash credit facility outside the command area, was not found to be proved in the proceedings. On the basis of the findings, the Disciplinary Authority awarded the punishment of reduction of basic pay by five stages in the time scale for a period of five years and that during the period of punishment, no increment would accrue to the husband of the petitioner. With respect to Charge No 3, the punishment was reduction of basic pay by two stages in the time scale of pay for a period of two years. Increments were also denied for the said period. The punishment of censure was awarded in respect of Charge No 4.

5 The short point raised by the learned counsel for the petitioner is that the Appellate Authority, while deciding the



petitioner's husband's appeal, has not considered any of the contentions raised by him in his appeal. It is submitted that the appellate order suffers from various procedural irregularities which petitioner's husband has highlighted in the appeal. The same has been rejected by a cryptic and non-speaking order showing non-consideration of various issues raised in the appeal. The order communicating the rejection is dated 18.07.2011 (Annexure 9). The consideration by the Appellate Board, which has been communicated under order dated 18.07.2011, is as follows:

“The Appellate Board has carefully gone through the contents of appeal and relevant records submitted pertaining to appeal of appellant. After careful study of the appeal and its papers on the record, Appellate Board comes to the conclusion that the appeal of Mr M C Verma be rejected. Hence rejected.”

6 What contentions of the petitioner have been considered? What is the material which has persuaded the Appellate Authority to reject the petitioner's claim? And what is the consideration, is not apparent from the order dated 18.07.2011 communicating rejection of the petitioner's appeal? The manner in which the Appellate Board has exercised jurisdiction, amounts



to reducing the forum of appellate jurisdiction to an empty formality. Non-assigning of reasons strikes on the very root of fairness. It is only by assigning reasons that the delinquent would have known what is weighed before the authorities while rejecting his appeal. In this connection, this Court would refer to a Division Bench judgment of this Court in the case of *Hassan Muzahid -Versus- Bihar State Electricity Board & Others, 2015 (4) PLJR 435*. Though the said judgment deals with assigning of reasons at the stage of consideration of second show cause by the Disciplinary Authority, it is trite law that assigning of reasons would be required even at the appellate stage. The proposition of law, in so far as requirement of assigning of reasons which has been considered by the Division Bench, squarely covers the instant case. In the instant case also, none of the grounds pleaded by the petitioner in his appeal has been considered. Such exercise amounts to violation of the principles of natural justice.

7 Learned counsel for the Bank, however, submits that since the charges are grave against the petitioner, this Court should not interfere in the matter. Charges against the petitioner are in respect of disbursement of loans. Keeping in view the standard of care and integrity from employee of the Bank, the petitioner could not have been awarded lesser punishment than what has been



awarded to him. It is further submitted that in fact the respondents have taken a very lenient view and merely directed for withholding of some increments and reduction in pay. The said punishments, though are major penalty but are much lesser than the extreme penalty of dismissal prescribed in the Bank Rules.

8 The contention of the learned counsel for the Bank is noted only to be rejected. In fact, the provisions of appeal is also prescribed in the Rules. Gravity of the charges cannot be urged as a ground for justifying exercise of the appellate authority in violation of law, as has been done in the instant case. The Appellate Authority has not considered any of the grounds/contentions raised in the petitioner's appeal. Without assigning any reason, order has been passed by the Appellate Authority.

9 In view of the aforesaid findings, this Court is of the opinion that the order dated 18.07.2011 communicating rejection of petitioner's appeal is wholly unsustainable and not in accordance with law. The order dated 18.07.2011 is, therefore, quashed.

10 The Appellate Authority would be obliged to reconsider the appeal of the petitioner and pass a reasoned and



speaking order, taking into consideration the various contentions raised and the grounds pleaded in the appeal.

11 Let such exercise be completed by the respondent-authorities within a period of three months from the date of receipt/production of a copy of this order.

12 This writ petition stands allowed to the extent indicated hereinabove.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.11.2018
Transmission Date	NA

