

# IN THE HIGH COURT OF JUDICATURE AT PATNA

## Civil Writ Jurisdiction Case No.2201 of 2015

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Krishna Bihari Sinha (K.B.Sinha), Son of Late Bhuneshwar Prasad Sinha Resident of Pranjali Annexe, 1St Floor, Pranjali Apartment, West Boring Canal Road, Police Station - Srikrishna Puri, District - Patna.

.... .... Petitioner/s

Versus

1. The Union of India
2. The General Manager, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna-1.
3. The Board of Directors, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna-1
4. The Chairman-cum-Disiplinary Authority, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna -1.
5. The Regional Manager, Regional Office, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna -1.
6. The Senior Manager, HRD, Head Office, Madhya Bihar Gramin Bank, Meena Plaza, South of Museum, Patna - 1

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Siya Ram Sahi, Advocate  
Mr. Ranjan Kumar Singh, Advocate  
For the Respondent/s : Mr. Mahesh Kumar Parvat, Sr. Advocate

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date:** 06-08-2018

Heard learned counsel for the petitioner as well as the respondent Bank.

2. The petitioner has been proceeded against and punished for his unauthorized absence from 28.10.1998 to 07.04.1999. The period is disputed by the petitioner by submitting that for five days from 28.10.1998 he had performed his duty at the Branch but was prevented from marking his attendance. As per his submission, instead of absence for 177 days, the petitioner was absent only for 172 days. It is also his contention that in his memo of appeal filed after



disposal of his earlier writ petition bearing C.W.J.C. No. 1817 of 2006 on 23.04.2014, he has enclosed series of applications said to have been submitted by him for extension of his leave from time to time. The applications are described in paragraph 7 of his memo of appeal and the same has been annexed as Annexure 2 series to the writ petition.

3. Referring to the findings of the Appellate Authority on the various applications submitted by the petitioner, it is pointed out that the findings are silent. The various applications which have been enclosed as Annexure 2 series have not been considered by the Appellate Authority. The Appellate Authority in his order has taken note of the point no. 2 raised by the petitioner which is as follows :

“The Branch Manager did not accept the leave application. After talking to the Chairman he assured the appellant to go home to see his mother but to remain available on phone. Thereafter the appellant submitted his application through post for extending his leave period time to time. He in his leave application dated 06.11.1999 informed about his mother’s death on 06.11.1999 and applied for extension of his leave for further two weeks.”

4. The findings of the Appellate Authority with respect to point no. 2 are as follows :

“It has also come to the notice on perusal of



order dated 23.03.2000 of the Disciplinary Authority at page no 03 that prior to this case the appellant while working as Branch Manager at BO Madhopur from 02.02.1990 to 03.11.1993 had committed same nature of irregularities i.e. of unauthorized absence of 151 days. He had also misused his powers as Branch Manager and had taken salary for the period of his unauthorized absence. As such charge sheet dated 01.02.1994 was served to him for his offence and the Disciplinary Authority vide order dated 06.12.1995 had awarded punishment of removal from service.”

5. Clearly the submissions of the petitioner have not been considered by the Appellate Authority. Since the facts and enclosures are already available before the Appellate Authority in appeal, no further application is required to be made on this limited point whether the applications enclosed along with the appeal (Annexure 2 series) warrant any consideration in favour to the petitioner. Without expressing any opinion on the merits of the application, this matter is remanded to the Appellate Authority.

6. The petitioner’s counsel has also made a submission that he has categorically given the example of other persons who have been given much lesser punishment though their unauthorized absence in the respondent Bank was more than the petitioner. Specific



instances have been enumerated in paragraph 6 of the memo of appeal.

7. In view of the aforesaid submission, the Appellate Authority may consider the petitioner’s aforesaid two claims and pass a final speaking order in respect of the aforesaid two limited claims within a period of two months from the date of receipt/production of a copy of this order.

8. Writ petition is disposed off.

**(Madhuresh Prasad, J)**

Prakash/-

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