

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23584 of 2012

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Brij Nandan Prasad Son Of Late Lakhan Ram Resident Of Bari Devi Asthan,
Dallu Chak, P.S. Khagaul, District Patna At Present Residing At Saidpur
Kothia, Vikas Nagar Kunj, Patna 10

... .. Petitioner/s

Versus

1. The Uco Bank, 10, Biplabi Trailokya Maharaj Sarani (Brabourne Road), Kolkata 700001, Through Its Managing Director
2. The General Manager, Personnel Services 3 & 4, D.D. Block (Sector-Ii), Salt Lake, Kolkata 700064
3. The Assistant General Manager Cum Appellate Authority, Uco Bank, Zonal Office, S K Tarafdar Road, Near Koila Ghat, Adampur Chowk, Bhagalpur 812001
4. The Assistant General Manager (Disciplinary Authority), Uco Bank, Zonal Bank, Central Jail Road, Jawaripur, Bhagalpur 812001
5. The Chief Officer (Disciplinary Authority) Uco Bank, Zonal Office, 24/16, Central Jail Road, Tilka Manjhi, Bhagalpur
6. Md. Asiruddin (Enquiry Officer) Uco Bank, Zonal Office, Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Prabhakar Singh, Advocate.

Mr. Rakesh Mohan Singh, Advocate.

For the Respondents : Mr. Ranjeet Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 03-12-2018

Heard Mr. Prabhakar Singh, learned advocate for the petitioner and Mr. Ranjeet Kumar Pandey, learned advocate for the respondent UCO Bank.

2. The petitioner has challenged the order of dismissal dated 14.12.2009 contained in Annexure-9 to this petition as well as the order passed in appeal dated 20.11.2010 whereby the order passed by the disciplinary authority has been affirmed and upheld.

3. The writ petitioner was working as Head Cashier at the Sahu Parbatta Branch, Bhagalpur of UCO



Bank from 19.06.1995 to 27.06.2007. During this period, he is alleged to have committed certain irregularities by misusing his official position and hence was chargesheeted on 21.05.2008 with four charges.

4. The first of the charge related to financing borrowers unauthorizedly without the power being delegated to him. The second charge related to debiting an amount of Rs. 10 lakhs in cash on 10.06.2005 in the current account of M/s Prakash Machinery Stores in the absence of any debit instrument. In the cash payment register there was no reference of any cheque number or token number and such debit was thus without any authorization. The charge no. 3 related to payment of Rs. 3 lakhs in cash in an irregular manner again in the current account of M/s Prakash Machinery Stores through withdrawal slip and lastly, the petitioner was charged for having acted in an irresponsible manner as a banker, violating all set norms of the bank.

5. The aforesaid charge was served upon the petitioner for not keeping the cashier summary book up-to-date with closing cash balance. Since the explanations offered by the petitioner was not found to be satisfactory, the above four charges were served upon him as it was a gross misconduct as per clause 19.5(j) of the modified Bipartite Settlement dated 19.10.1966. The departmental proceeding commenced on 23.07.2008 and was concluded



on 13.05.2009. The Enquiry Officer found that charges no. 2 and 4 were proved whereas charges no. 1 and 3 could not be proved. After going through the report of the enquiry officer, the disciplinary authority, by the order impugned dated 14.12.2009, inflicted a punishment of dismissal from service with respect to the proved charge no. 2 and for the charge no. 4 which also stood proved, the Head Cashier's allowance given to the petitioner was withdrawn.

6. The appellate authority vide order dated 20.11.2010 dismissed the appeal.

7. The aforesaid orders of dismissal and rejection of the appeal have been challenged by the petitioner on the ground that such orders have been passed against the materials on record and the authorities concerned did not take into account that the branch in question where the petitioner was posted as Head Cashier was manned by only two persons; one being the petitioner and the other being the Branch Manager. A serious grievance has been made by Mr. Prabhakar Singh, learned advocate appearing for the petitioner that every action of the petitioner was on the direction of the then Branch Manager who curiously has not been proceeded against departmentally. The obvious purpose was to make the petitioner a scapegoat in this act of omission and commission by the Branch Manager. He has further submitted that there has been violation of



principles of natural justice and an unfair treatment has been meted out to him. Lastly, it has been submitted that charges no. 1 and 3 are so much interlinked/intertwined with charges no. 2 and 4 respectively that if charges no. 1 and 3 could not be proved, it would be almost difficult to sustain the finding of the enquiry officer that charges no. 2 and 4 were proved.

8. In support of the aforesaid contentions, Mr. Prabhakar Singh, learned advocate appearing for the petitioner has stated that from the documents viz. ME-6 and ME-17, it would become very clear that the debit in the account of M/s Prakash Machinery Stores was only on the instructions of the Branch Manager and the charge against him that such debit was made without there being any document/token/approval is incorrect.

9. As opposed to the aforesaid submission, Mr. Ranjeet Kumar Pandey, learned advocate for the UCO Bank has taken this Court to the report of the enquiry officer with respect to charges no. 2 and 4.

10. From the perusal of the report of the enquiry officer, it clearly appears that the petitioner had paid Rs. 10 lakhs on 10.06.2005 in the current account of M/s Prakash Machinery Stores without there being any instrument of debit in existence. The documents which have been pressed for substantiating the aforesaid charge are ME-1, 3, 4, 6, 7, 16 and 17. Apart from this, Mr.



Pandey, learned advocate for the UCO Bank has also drawn the attention of this Court to the fact that the petitioner himself has stated that the debit was made in the aforesaid account after withdrawal of cash amount of Rs. 15 lakhs from the Currency Chest Branch of Tilkamanjhi. From the aforesaid amount, Rs. 10 lakhs was paid in the account of M/s Prakash Machinery Stores on 10.06.2005. With this admission, the charge that the aforesaid debit/payment of Rs. 10 lakhs in cash was without any authorization stands vindicated. The charge no. 4 viz. that the petitioner acted in an irresponsible manner in violation of the norms of the bank was also proved. The cashier summary book having the closing cash balance of Rs. 4,14,448.50/- on 17.06.2005 was only signed by the petitioner and not by the Branch Manager who was present on that date. The aforesaid charge has been sought to be negated by the petitioner on the ground that the branch was being manned by only two persons, one being the Branch Manager and the other the petitioner himself and in that view of the matter, the aforesaid charge was absolutely unjustified.

11. The disciplinary authority vide order dated 20.11.2010, after going through the entire records agreed with the finding of the enquiry officer and held that charge no. 1 and 4 were not proved but with respect to the charge no. 2 and 4, there were necessary materials/evidence for



the petitioner to be punished for the aforesaid charges. Hence for charge no. 2, the petitioner was inflicted with the punishment of dismissal from the service of the bank whereas for charge no. 4, the Head Cashier's allowance was withdrawn.

12. The appellate authority did not consider it expedient to differ with the views of the disciplinary authority.

13. The issue of judicial review in a domestic proceeding has been too well settled by now. After the judgment delivered in ***State of Andhra Pradesh vs. S. Sree Rama Rao AIR 1963 SC 1723*** and ***B.C. Chaturvedi vs. Union of India (1995) 6 SCC 749***, the Supreme Court has restated the grounds of judicial review in the ***High Court of Judicature at Bombay vs. Shashikant S. Patil and Anr. (2000) 1 SCC 416***.

The Supreme Court in the aforesaid case has held as follows:

"interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority has held proceedings in violation of principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is



vitiated by the considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above.”

14. Learned counsel appearing for the UCO Bank has also referred to a judgment delivered by the Supreme Court in ***State Bank of India and Anr. vs. Bela Bagchi And Ors. 2005 (7) SCC 435*** wherein it was held that a bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and customers. He is therefore required to take all possible steps to protect the interest of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer.

15. From the records therefore, it appears that the charge against the petitioner was not casual in nature; rather a very serious charge of debiting a huge amount of cash in the account of M/s Prakash Machinery Stores. There was no authorization nor the cash register referred to any token number. This was obviously for the purposes of benefiting a particular investor with the bank. Similarly the cash summary register not being signed by the Branch



Manager but only by the Head Cashier also speaks about the negligent manner in which the petitioner conducted himself as a banker.

16. Apart from this, since nothing has been brought on record to show that any principle of natural justice was violated or the petitioner was not afforded an opportunity of hearing, it would not be proper for this Court to substitute its opinion for the opinion of the disciplinary authority as well as the appellate authority.

17. There is no reason for this Court to interfere with the aforesaid orders impugned.

18. The writ petition is dismissed.

(Ashutosh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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