IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2105 of 2015
In
Civil Writ Jurisdiction Case No.15252 of 2005

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Binay Kumar son of Late Achuta Nand Sinha, resident of Mohalla- Maa Bhawan, Sudha Kunj, Jai Prakash Nagar, P.O.- Gewal Bigha, District- Gaya

... ... Appellant/s

Versus

1. Bank of India, through its Zonal Manager, R. Block Birchand Patel Marg, Patna, constituted Power of Attorney
2. The Presiding Officer, Industrial Tribunal, Patna
3. The Union of India, Secretary, Labour and Employment, Sharam Bhawan, New Delhi

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Bhubneshwar Prasad
For the Respondent -Bank	:	Mr. Ram Janam Prasad, Advocate with Mr. Nishi Nath Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 03-04-2018

Heard Mr. Bhubneshwar Prasad, learned counsel for the appellant and Mr. Ram Janam Prasad, learned counsel, who is assisted by Mr. Nishi Nath Ojha, learned Counsel for the Bank.

This Letters Patent appeal arises from the judgment and order dated 03.09.2015 of a learned Single Judge of this Court passed in CWJC No. 15252 of 2005, whereby the writ petition filed by the Bank questioning the award dated

30.09.2005, passed by the Presiding Officer, Industrial Tribunal, Patna in Reference Case No. 1 (C) of 2004 has been set aside, thus, allowing the writ petition.

We have heard learned Counsel for the parties and we have perused the materials on record.

The charges set up against the petitioner, who was holding the post of Cash-cum-Accounts Clerk in the respondent-Bank have been set out at paragraph 2 of the impugned judgment and order as follows:-

> *"1. On 01.01.2002, he unauthorizedly altered the amount of Rs. 276/- in P/L Debut entry pertaining to payment of interest in DBD A/c No. 3899 to Rs. 5276/- and further credited the difference amount of Rs. 5000/- to his own O/D account. He was charged for the said transaction, which was done by him using the password of one Sri Zafar Islam, CTO when Sri Islam had logged in on two computers simultaneously and working on one of the computer leaving the first computer logged in, he (respondent no.2) used computer which is already logged in by Sri Zafar Islam, unauthorizedly to make alteration in the P/L Debit and to credit his O/D account. He was also charged with credit voucher, pertaining to his O/D account, was removed/destroyed by him.*
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> *2. On 11.01.2002, the respondent no.2 altered P/L Debit entry of Rs. 1500/- pertaining to interest credited in DBD A/c No. 1081 to Rs. 11,500/- and credited difference amount of Rs. 10,000/- to his own S/B Account No. 5500. The amount so fraudulently credited to his own S/C account was withdrawn by him on 28.01.2002. He was also charged that he altered the figure in the transfer book on 01.01.2002 manually and made the necessary alteration in the page total also."*

The petitioner was proceeded departmentally, a disciplinary proceeding was held and in the inquiry the petitioner accepted his guilt. It is in the light of the evidence on record as well as the acceptance of guilt by the petitioner which led to the order of dismissal. Feeling aggrieved that the appellant-respondent raised an Industrial Disputes under the provisions of the Industrial Dispute Act, 1947 (hereinafter referred to as the 'Act') and a reference was made under Section 10 thereof before the Tribunal on the following terms:-

> *"Whether the order of punishment to remove Sri Binay Kumar, Cash-cum-Accounts Clerk from service while working in Gaya Branch of the Bank of India was legal and justified? If not, what relief the workman was entitled to?"*

The Tribunal on examination of the materials on record and the argument of the contesting parties was of the opinion that the punishment was excessive and ordered for reinstatement of the appellant, which led to the proceeding before the writ Court at the instance of the respondent-Bank giving rise to CWJC No. 15252 of 2005 and which has been allowed by the judgment and order impugned dated 03.09.2015, whereby the award was set aside and it is feeling aggrieved, the workman is before this Court.

The charges are very serious and confirms financial irregularity by the petitioner, who held the post of Cash-cum-Accounts Clerk and who by interpolation in the debit entry of the profit loss account transferred the differential amount by prefixing digit ‘5’ in front of the debit entry Rs. 276/- thereby enhancing it to read as Rs. 5276 and transferred the enhanced differential amount of Rs. 5000/- to his own account. This alteration took place on 01.01.2002 and within ten days thereafter on 11.01.2002, he again by prefixing digit ‘1’ in front of the debit entry of Rs. 1500/-, made it to read as Rs. 11,500/- and transferred the differential amount of Rs. 10,000/- to his own account. These facts of transfer have been admitted. Both the transfers were made to the own O/D account of the petitioner. In fact, he also withdrew the sum on 28.01.2002, thus completing the illegal act, which confirmed a serious misconduct. There is nothing on record which would confirm that any attempt was made by him to rectify the error, rather, it is when the default was detected and proceeding initiated that the petitioner deposited the withdrawn amount.

In our opinion, on such uncontested facts which are founded on recorded entries, there could not have been any other punishment than dismissal and the issue so raised by Mr. Prasad that the admission of guilt by the petitioner was resting on assurance or coercion becomes immaterial. In the admitted circumstances noted, the Tribunal had clearly exceeded the jurisdiction vested in it under Section 11A of 'the Act' to interfere with the punishment order because there existed no material on record which warranted any interference with the order of dismissal.

Bank employees are repository of public trust and dealing with the public money they are expected to maintain highest degree of integrity and honesty. There may be bona fide mistakes arising from human error but that has to be tested against the facts accompanying each case. In so far as the case in hand is concerned, the charges itself are self explanatory of the misconduct and the interpolation in the entry followed by withdrawal of the inflated sum followed again by its return confirms the misconduct and no infirmity either procedural or on evidence can be found warranting interference.

The status of a bank employee and the degree of honesty and integrity expected stands explained in paragraph 14 of the judgment rendered in case of **Chairman and Managing Director, United Commercial Bank and others-vs- P.C. Kakkar** since reported in **AIR 2003 SC 1571**, taken note of by the learned Single Judge while recording his opinion and we are persuaded by the observation made by the Supreme Court, which is reproduced herein below for ready reference:-

> *14. A Bank Officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is 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, Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager V. Nikunja Bihari Patnaik, 1996 (9) SCC 69, it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."*

In the undisputed circumstances discussed, the judgment and order passed by the learned Single Judge is founded on sound reasons and does not require interference by this Court.

The Letters Patent appeal is, accordingly dismissed. There shall be no order as to costs.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

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