# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.660 of 2016**

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Bal Mukund Prasad Singh, Son of Sri Ram Sagar Singh, Resident of Mohalla-Atardah, P.S.- Sadar, Muzaffarpur, P.O.- Ramna, District- Muzaffarpur- 842002.

.... .... Petitioner/s

Versus

1. The Punjab National Bank through its Chairman cum Managing Director, H.O.- 7, Bhikaji Cama Palace, Africa Avenue, New Delhi 110067.
2. The General Manager, Personnel Administrative Division, Punjab National Bank/Appellate Authority, H.O., New Delhi.
3. The Deputy General Manager/Disciplinary Authority, Field General Manager Office, Punjab National Bank, R-Block, Chanakya Tower, Patna.
4. The Chief Manager/Inquiry Authority, Punjab National Bank, Field General Manager Office, Patna.
5. The Chief Manager, Circle Office, Punjab National Bank, Muzaffarpur.
6. The Sr. Manager/Presenting Officer, Punjab National Bank, Khabra Road Branch, Muzaffarpur.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Siddhartha Prasad, Adv.
Mr. Om Prakash Kumar, Adv.

For the Respondent/s : Dr. Pankaj, Adv.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

ORAL JUDGMENT

**Date: 11-05-2018**

The petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 26.2.2015 passed by the Deputy General Manager –cum- Disciplinary Authority as communicated through letter bearing no.46246 dated 27.2.2015 under the signature of the Chief Manager, Circle Office, Punjab National Bank, Muzaffarpur, whereby a penalty of compulsory retirement has been passed in exercise of power vested under Regulation 4(h) of the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977 (hereinafter referred to as 'the Regulations'). The petitioner has also questioned the order bearing No.21337 dated 31.8.2015 passed by the General Manager –cum- Appellate Authority communicated through letter dated 7.9.2015 whereby the appeal has been rejected.

The facts of the case briefly stated is that a disciplinary proceeding was initiated against the petitioner by service of a charge memo dated 1.2.2014, a copy of which is impugned at Annexure 1 listing 14 charges against the petitioner. The petitioner filed his reply at Annexure 2 rebutting the charges. The proceedings so initiated culminated in the enquiry report at Annexure 7. Of the 14 charges while the Enquiry Officer upheld charge nos. I, II, III, VII and XI, charge nos. IV, V, VI, VIII and IX were partially proved and charge nos. X, XII, XIII and XIV were not proved. On receipt of the enquiry report that the petitioner filed his representation at Annexure 8 praying for exoneration from the proved charges on grounds that they were based on no evidence but has resulted in the punishment order dated 26.2.2015 at Annexure 9 series and which order has been affirmed in appeal which was dismissed vide order impugned at Annexure 11. Feeling aggrieved the petitioner is before this Court.

Mr. Siddhartha Prasad, learned counsel has appeared for the petitioner while the Bank is represented by Dr. Pankaj.

It is the submission of Mr. Siddhartha Prasad, learned counsel appearing for the petitioner that while the charges are based on no evidence, the punishment orders suffer from non-application of mind and thus are perverse. According to Mr. Prasad, every charge has been suitably explained and rebutted by the petitioner but mechanically the same has been rejected not only by the Enquiry Officer but also the Disciplinary Authority to impose the punishment of compulsory retirement. The proceedings have been questioned on grounds of:-

(a) Vagueness of charge;

(b) Non-supply of documents relied upon;

(c) Denial of sufficient opportunity;

(d) Perversity in the findings of the Enquiry Officer as well as the Disciplinary Authority and the Appellate Authority; and

(e) Excessive punishment.

Dr. Pankaj, learned counsel appearing for the Bank has contested the arguments by submitting that the enquiry proceeding would confirm that sufficient opportunity was given to the petitioner to rebut the charges which was record based but the petitioner failed to satisfy on the same. According to Dr. Pankaj, the charges against the petitioner were very serious but taking note of the circumstances accompanying that the Bank has been lenient in imposing the punishment of compulsory retirement. Learned counsel relying upon a Supreme Court decision reported in **(1998)4 SCC 310 (Union Bank of India vs. Vishwa Mohan)** more particularly paragraph 12 has submitted that the scope of interference in a disciplinary proceeding has been discussed and since the petitioner has been given ample opportunity to defend himself, the orders require no interference.

I have heard learned counsel for the parties and I have perused the records.

As rightly argued by Dr. Pankaj, learned counsel appearing for the Bank, the scope of interference in a disciplinary proceeding is rather circumscribed for unless a delinquent is able to demonstrate that he has been denied reasonable opportunity to defend himself and/or the orders impugned reflect perversity inasmuch as it is resting on no evidence or the evidence led by the delinquent has given a go-bye, and/or the punishment imposed appears excessive to shock the conscience of a court, there can be no interference with either the process adopted or the orders passed thereon simply on a possible second opinion. Reference in this regard is made to a judgment of the Supreme Court reported in **(2017)1 SCC 768 (H.P.S.E.B. vs. Mahesh Dahiya)** paragraphs 29 and 30.

The charge-sheet at Annexure 1 lists no less than 14 charges against the petitioner and while charge nos. I, II, III, VII and XI have been found proved beyond any doubt, there are others which have been partially proved while charge nos. X and XII to XIV have not been proved.

In my opinion in the nature of contest in hand I am not required to either delve into the sufficiency of evidence or into the quantum of punishment because a Bank Officer is held to be a repository of public trust and thus his action has to be transparent and beyond shadow of doubt. Reference in this regard is made to the judgments of the Supreme Court reported in **(1996)9 SCC 69 (Disciplinary Authority cum Regional Manager Vs. Nikunja Bihari Patnaik)**, paragraph 7 and **(2005)7 SCC 435 (State Bank of India vs. Bela Bagchi)**, paragraph 15.

Charge No.I relates to transactions from the account of the petitioner which were allegedly beyond his known source of income. The reply of the petitioner at Annexure 2 explains some of the transactions, most of which are in a form of refund. To show a refund the principle followed in such cases is very straight and before a delinquent would hide behind a refund to justify a transaction, he is first required to prove the money lent which is not the case here. The Enquiry Officer's finding to such effect would confirm the non-satisfactory explanation of the petitioner.

Charge No.II charged the petitioner of entrusting duties to a Customer Care Officer which was against his job profile.

Charge No.III is a rather serious charge and fails the petitioner in obtaining Joint Registration Certificate against the loan account to the tune of Rs.18,48,325/- which were yet outstanding and difficult to recover. Although the petitioner has given an explanation to the follow up step taken by him and the legal notices served in that regard but the delinquent officer has not denied that he did not take steps for obtaining Joint Registration Certificate from the loanees. This is a very serious charge for it affects the financial interest of the Bank.

Charge No.IV has been bifurcated into several parts and while charge no.IV(A) relating to default in adherence in 'Know Your Customer' (KYC) as well as the charge no.IV(C) relating to non-compliance of maintaining confidential reports on borrower or guarantor, were not proved but the charge no.IV(B) relating to the lapse committed by him in recommending KCC loans, were held proved.

Charge no.V relating to failure of the petitioner to ensure pre-sanction norms as per the guidelines was again held partially proved and so was Charge No.VI which related to sanction/ disbursement of loans in reckless manner. Charge no.VII which charged the petitioner in not taking proper post-sanction follow up resulting in loan account slipping into NPA and difficult to recover, was held proved and so was charge no.XI which related to 126 loan accounts. While Charge nos.VIII and IX were held partially proved, charge no.X and XII to XIV were held not proved.

A cursory glance to the discussions made by the Enquiry Officer to uphold the charges would confirm that it is resting on tangible materials and fails the petitioner as a Bank Officer in maintaining commitment or alertness in discharge of his duties which includes efficient recovery of loans disbursed as well as adherence to steps required for ensuring realization of the loan disbursed. There cannot be any dispute that the charges upheld by the Enquiry Officer which has persuaded the Disciplinary Authority as well as the Appellate Authority to confirm to the punishment of compulsory retirement are founded on cogent materials backed by sound reasons and cannot be termed perverse for requiring any interference.

In the nature of the post held by the petitioner, the charges clearly tell upon his role as a Bank Officer and if the circumstances accompanying the disciplinary proceeding has persuaded the Disciplinary Authority and the Appellate Authority to compulsorily retire the petitioner, no fault can be found either in the decision making process or the decision itself.

Despite such being the position, the Court is informed that even while imposing the punishment of compulsory retirement, the Bank has been extremely reasonable to protect the post-retiral benefits of the petitioner.

Not being persuaded thus, with the passionate arguments advanced by Mr. Prasad, I find no reason to interfere with the orders impugned.

The writ petition is dismissed.

**(Jyoti Saran, J)**

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| AFR/NAFR | AFR |
| CAV DATE | NA |
| Uploading Date | 24-06-2018 |
| Transmission Date | NA |