IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.35 of 2016

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Sujeet Kumar Barnwal Son of Nageshwar Prasad Barnwal Resident of village - Marcho, P.S. Marcho, Distt. - Kodarma

.... Petitioner

Versus

1. The Chief General Manager, The State Bank of India (S.B.I.) Patna, Bihar
2. The Deputy General Manager S.B.I. Muzaffarpur, Bihar
3. The Disciplinary Authority Cum - Cum - Regional Manager S.B.I. Bettiah, Bihar
4. The Chief Manager S.B.I. Bettiah, Bihar
5. Kundan Kumar Son of Rameshwar Rao, Rao Daily Wager Staff of S.B.I. Main Branch Bettiah, resident of village - Dhaddur Bilashpur, P.S. Dhaddur, Distt. - Champaran
6. Mahendra Chaudhary Son of Late Asharfi Lal Chaudhary resident of village - Chanddhura, P.O. Makar, P.S. Makar, District - Saran at Present Posted as Deputy Manager S.B.I. Main Branch Bettiah, Bihar
7. Upendra Chaudhary Assistant S.B.I. Main Branch Bettiah, Bihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad, Adv.
Mr. Rajendra Nath Sinha, Adv.

For the Respondent/s : Mr. Kaushlendra Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-01-2018

Heard learned counsel for the parties.

The petitioner is aggrieved by the order dated 30.9.2015 passed by the Appellate Authority cum Deputy General Manager, whereby the order of dismissal without notice passed by the disciplinary authority dated 20.7.2015 has been affirmed. A copy of the order dated 20.7.2015 passed by the disciplinary authority is enclosed at Annexure 'A' to the counter affidavit of the Bank and its confirmation by the appellate authority vide order passed on 30.9.2015 is impugned at Annexure 1 to the writ petition.

The facts of the case briefly stated is that the petitioner after being show caused on financial irregularities by the Chief Manager, State Bank of India while serving as a Customer Assistant under Bettiah Branch of the Bank vide notice at Annexure 4 was served with a charge memo dated 31.10.2014, a copy of which is impugned at Annexure 6 to the writ petition. The petitioner was charged on six counts of having obtained cash deposits through Government Challan for deposited towards excise duty but he reversed the entries and misappropriated the cash so deposited by the depositors. The charges also include detection of counterfeit 500/- rupees note valued at Rs.6000/-. Charging the petitioner with gross misconduct that the disciplinary proceeding was initiated.

The petitioner filed his reply to the charges denying the same vide Annexure 7. The Enquiry Officer held the enquiry and submitted his report vide Annexure 8 upholding the charges on the basis of evidence on record. A copy of the enquiry report is impugned at Annexure 8. The petitioner was served with second show cause on the enquiry report vide Annexure 9 to which he filed his reply vide Annexure 10 and which has resulted in the order of dismissal placed on record by the respondents in the counter affidavit at Annexure 'A' which is an order dated 20.7.2015 of the disciplinary authority and which order has been affirmed by the appellate authority vide his order dated 30.9.2015 impugned at Annexure 1. Feeling aggrieved the petitioner is before this Court.

I have heard Mr. Suresh Prasad, learned counsel appearing for the petitioner and the learned counsel for the Bank and have perused the records.

This writ petition was heard and admitted by this Bench vide order passed on 5.9.2016 taking notice of the circumstances accompanying the writ petition as well as the fact that the allegations have also led to institution of a criminal case arising from Bettiah Town P.S.Case No. 352/2014 registered for the offices punishable under sections 409 and 420 of the Indian Penal Code. The charges facing the petitioner present at Annexure 6 are very serious and confirm financial irregularity. Six of the seven charges allege receipt of cash deposits by the petitioner running into lacs of rupees and thereafter reversing scroll entries without sanction of the superior authority and without taking follow up steps for cancellation of the counter foils issued to the customers or for return of the amount so deposited to them. Very strenuously Mr. Prasad tried to impress this Court that the petitioner serving as Assistant under Bettiah Branch was merely acting on the orders of the superiors and as per past practice but these are only oral assertions which is not supported by any follow up action by the petitioner for having reversed the scroll entries, he neither took steps to call the customers concerned for cancellation of the counter foils certifying deposit nor did he take steps for retuning the money to the said customers. Most of the deposits were in the nature of the Government revenue and thus, the allegations in absence of any evidence either on the cancellation of the counter foils certifying deposit or in return of the money to the depositors, confirms that the reversal of the scroll entries by the petitioner after receiving the same, was a gross financial irregularity and in the circumstances discussed, the punishment of dismissal requires no interference.

The writ petition is dismissed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2018
Transmission Date	NA