

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3097 of 2016

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Binita Thakur, Wife of Late Shashi Bhushan Thakur, Resident of Rahul Nagar, Road No. 2, Sanjay Cinema Road, Brahampura, P.S. - Brahmpura, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. Punjab National Bank through Chairman -cum- Managing Director, Punjab National Bank, Head Office – Bhikaji Cama Palace, New Delhi
2. Deputy General Manager - cum - Appellate Authority, Punjab National Bank Circle Office R/o Muzaffarpur
3. Chief Manager - cum - Disciplinary Authority, Punjab National Bank, Human Resources Department Circle Office, R/o Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa
For the Respondent/s : Mr.Kumar Priya Ranjan

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 08-05-2019

Heard Mr Ashhar Mustafa for the petitioner as well as the learned counsel for the Bank.

2 Petitioner's husband, while working as a Clerk -cum- Cashier, was proceeded against under certain charges. He was held guilty in the proceedings and the Disciplinary Authority awarded the petitioner's husband the punishment of removal from the service of the Bank. The appeal of the petitioner's husband filed before the Deputy General Manager (Appellate Authority) against the order of punishment was finally rejected on



17.09.2010. Petitioner's husband approached this Court by filing CWJC No 18698 of 2010. After hearing the parties and taking note of the objection regarding maintainability of the writ petition, due to availability of alternative remedy under the Industrial Disputes Act, this Court has confined itself to the validity of the order passed by the Appellate Authority. Having regard to the fact that the Appellate Authority's order ignored to assign reasons, this Court has framed certain issues which were to be examined by the Appellate Authority and remanded the matter to the Appellate Authority.

3 Relevant extract of the order passed in the proceedings arising out of CWJC No 18698 of 2010 is being reproduced for reference:

"It is evident from the impugned appellate order dated 17.10.2010 that the point raised by the petitioner, though taken note of, in the appellate order has not been dealt. It seems that petitioner took specific plea to the effect that the advances which were made to him, were not for his personal use but for the Bank Workmen and the entries were subsequently adjusted in due course without any delay. I do not find any discussion in the impugned order on this point. The impugned order passed by the Appellate Authority, on the face of it, is devoid of reason and cannot be sustained. In my view, availability of alternative remedy is not absolute bar for this Court to interfere in exercise of jurisdiction under Article 226 of the Constitution of India. Since, I find the Appellate order to be patently illegal being devoid of reason, I set aside the same with a direction to the Deputy General



Manager, Circle Office, Muzaffarpur (respondent No 2) to pass an order afresh on the appeal preferred by the petitioner.

This application is allowed, with the observation as above.”

4 Appellate Authority, thereafter, has passed the order upon remand on 25.10.2014. The same is impugned in the instant writ petition along with the entire proceedings. The specific plea of the petitioner's husband that the various advances, which he had obtained, were not utilized for his personal purposes, and that he had paid back the loans/overdraft availed by him, were required to be considered by the Appellate Authority.

5 It is submitted by learned counsel for the petitioner that the order of the Appellate Authority again was not proper as the same infirmity has been committed inasmuch as the said non-utilization of suspense advances for his personal gain has not been considered by the Appellate Authority. It is also submitted that substance of the allegations are concerning disbursement of loan to the petitioner's husband. It is further submitted that once the amount has been repaid, by no stretch of imagination, the same has to be considered and removal from service on such consideration is not proper. Relying upon the Bipartite Settlement which is dated 10.04.2002, Mr Mustafa appearing for the petitioner submits that Clauses 5 (f) and 5 (j) of the Settlement are not made out as



per the order passed by the Appellate Authority and, as such, the order of punishment is unsustainable.

6 Learned counsel for the respondent-Bank submits otherwise. It is his submission that petitioner's husband has repeatedly been resorting to suspense advance as per his needs and convenience. Merely for the fact that he has been returning the same, cannot absolve him of his liability. Suspense advance is intended only to meet the requirement of cash expenses of the bank. In the circumstance, where a bank employee takes suspense advance as per his personal needs and conveniences, the Bank cannot allow such a person to continue in its service.

7 As regard the other submission made by the petitioner, this Court would observe that the petitioner's husband has unauthorizedly availed the overdraft facilities and it does not lie in the mouth of the petitioner to contend that merely because her husband had refunded the same, the Bank should take a view as if the petitioner's husband is a bona fide loanee.

8 Regarding third submission with regard to Clause 5 (f), this Court would observe that the various suspense advances, which form the basis of the charges against the petitioner's husband and which have been found to be availed for personal use,



are per se sufficient to conclude that the petitioner's husband was habitual in committing the said infirmity.

9 Clause 5 of the Bipartite Settlement does not necessitate a serious loss to the Bank, for its application, bare perusal of Clause 5 (j) would show that mere likelihood of jeopardizing the interest of the Bank so as to cause serious loss is sufficient to attract Clause 5 (j). In view of the reckless manner in which the petitioner's husband had been availing suspense advance and unauthorized overdraft facilities, the Bank was justified in removing the petitioner's husband.

10 Order of the Appellate Authority has also considered these aspects of the matter as is evident from the same. No case is made out for intervention with order of Appellate Authority.

11 Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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