

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.182 of 2019

Umeshwar Prasad Singh Son of Late Munshi Singh Resident of 301, Patna Super Market, B-Block Frazer Road, Police Station Gandhi Maidan, District-Patna.

... .. Petitioner

Versus

1. State Bank Of India Through Its Chief General Manager Local Head Officer, West Gandhi Maidan, P.S. Gandhi Maidan, District-Patna.
2. The Assistant General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, P.S. Gandhi MNaidan, District-Patna.
3. The Appellate Authority Cum Deputy General Manager (B and O), Zonal Office, J.C. Road, Patna.
4. The Chief Manager, State Bank of India, J.C. Road Branch, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar Mr. Alok Kumar @ Alok Kr Shahi
For the Bank	:	Mr. Chitranjan Sinha, Sr. Advocate Ms. Surya Nilambani Mr. Binod Bihari Sinha
For the Respondent/s	:	Mr.Kaushlendra Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 05-09-2019 The petitioner, an employee of the respondent bank, has been visited with the order of removal from service. The punishment has been awarded pursuant to a proceeding on the basis of charge memo alleging that the petitioner was in unauthorised occupation of the guard room at J.C.Road Branch.

It is the petitioner's case that in the proceedings no evidence whatsoever, oral or documentary, was presented in support of the allegation. The petitioner's case before the authorities was that for a short duration under orders of the



superior authority he occupied the guard room to oversee construction work being carried out beyond the bank hours. These issues have not been considered by the authorities.

Learned Counsel for the bank submits that having usurped the guard room the petitioner has shown grave misconduct and pursuant to a proceeding conducted in accordance with law the findings have been recorded against him leading to imposition of punishment.

All these issues, as have been submitted by the petitioner's Counsel, was raised in his memo of appeal preferred before the Appellate Authority -cum- Deputy General Manager in the administrative office of the respondent bank at Patna. From bare perusal of the order passed by the appellate authority, it is apparent that the same suffers from the vice of non consideration of the aforesaid pleas set forth by the petitioner before the appellate authority. Such exercise of appellate jurisdiction renders the appellate forum to be futile. The detailed and elaborate memo of appeal preferred by the petitioner raising aforesaid grounds on 5.10.2018 (Annexure 'B' to the counter affidavit) has been rejected and punishment upheld by the Appellate Authority under order dated 17.10.2018 by recording as follows:-



“After examining everything in totality and independently in a free and fair manner, I am of the view that your act amounts to Gross Misconduct. Therefore, I do not find that the order of punishment is in violation of rules of natural justice in terms of Memorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10.04.2002. Thus, I do not find reasons to set aside/ modify the order passed by the Disciplinary Authority/ Appellate Authority.”

The order prima facie is an order without assigning reasons and without considering the various grounds urged by the petitioner in his appeal. Having regard to the law laid down by the Apex Court requiring assigning of reasons by the authority performing quasi judicial functions, specially the reasoned order of the Apex Court in the case of Kranti Associates Pvt. Ltd. & ors Vs. Masood Ahmad Khan & ors reported in (2010) 9 SCC 496, the order passed by the Appellate Authority dated 17.10.2018 is held to be bad on account of suffering with the vice of non assigning of reasons and non consideration of the ground urged by the petitioner. The order dated 17.10.2018 is quashed. Matter is remanded to the Appellate Authority to take decision afresh by considering the grounds urged by the petitioner and assigning reasons in support of his conclusion.



At this juncture, petitioner's counsel submits that since the matter is being remanded to the Appellate Authority he may be permitted to supplement the appeal raising the issue of punishment being excessive and grossly disproportionate to the misconduct.

Such liberty is granted to the petitioner. He may supplement his appeal within four weeks. The Appellate Authority (respondent No. 3) should dispose of the appeal in accordance with law, by a reasoned and speaking order. Let final order be passed within eight weeks from the date of which the petitioner supplements his appeal.

The writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

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