

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13312 of 2014

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Rajendra Prasad son of Late Dhanushdhari Mahto resident of village - Sirsiya,
P.S. - Tajpur Bangra, District - Samastipur.

... .. Petitioner/s

Versus

1. The Chairman Uttar Bihar Gramin Bank and Ors
2. The General Manager Uttar Bihar Gramin Bank Head Office - Kalambagh Chowk Muzaffarpur, Bihar.
3. The Regional Manager Uttar Bihar Gramin Bank, Madhubani.
4. The Branch Manager Uttar Bihar Gramin Bank, Branch Hirni, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rohit Kumar
For the Respondent/s : Mr.Prashant Vedasen

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 16-07-2019 Heard counsel for the petitioner and counsel for the respondents-Bank.

Petitioner has challenged the order dated 24.08.2013 whereby he has been dismissed from service of the Bank. He has also assailed the order passed by the Appellate Authority dated 04.03.2014 rejecting petitioner's appeal against the order of dismissal.

Petitioner being an Officer Scale I, at the relevant time was posted at Hirni Branch under Regional office of Respondent-Bank, Darbhanga and was In-charge of Satellite Branch. The allegations made against petitioner are in respect of fraud and embezzlement in the Satellite Branch. In respect of



the same allegations,petitioner was also proceeded against in the criminal proceeding.

Counsel for the petitioner has drawn attention of this Court towards some documents to submit that date on which embezzlement was attributed to the petitioner, he was on leave as per record of the respondent-Bank. Whether petitioner was required to be officially present for committing fraud is an issue to be looked into in the proceeding itself.

Admittedly, 15 dates were fixed in the enquiry by the Enquiry Officer. Petitioner had appeared only on two dates, i.e. 15.09.2012 and 27.12.2012. Enquiry thereafter continued till 08.03.2013.

Counsel for the petitioner submits that due to implication in the criminal case, he was avoiding arrest and therefore, unable to appear in the departmental proceeding. On specific query made by the Court whether he had ever sought extension of time or adjournment before the Enquiry Officer, he submits that no such application has been made.

Records reveal that during course of proceeding petitioner had repeatedly requested the authorities to revoke his suspension. Communication in this respect had been made on 28.09.2012, 03.10.2012, 18.03.2012 and 29.03.2012.



Petitioner has chosen not to appear before disciplinary authority nor he has made effort to seek adjournment, if he had any valid reason for non-appearance.

Having chosen not to avail opportunity granted by the authority, petitioner cannot say that the order of punishment suffers from non-compliance of principle of natural justice. In this connection, this Court would refer to the decision of the Apex Court in the case of Board of Directors, Himachal Pradesh Transport Corporation & another vs. K.C. Rahi reported in (2008) 11 SCC 502.

Relevant paragraph of the Apex Court judgment are being reproduced hereinbelow :

Para-7 The principle of natural justice cannot be put in a straitjacket formula. Its application depends upon the facts and circumstances of each case. To sustain a complaint of non-compliance with the principle of natural justice, one must establish that he has been prejudiced thereby for non-compliance with principle of natural justice.”

Para 8 “ In the instant case we have been taken through various documents and also from the representation dated 19.10.1993 filed by the respondent himself it would clearly show that he knew that a departmental enquiry was initiated against him yet he chose not to participate in the enquiry proceedings at his own risk. In such event plea of principle of natural justice



is deemed to have been waived and he is estopped from raising the question of non-compliance with principles of natural justice. In the representation submitted by him on 19.10.1993 the subject itself reads “ DEPARTMENTAL ENQUIRIES”. It is stated at the Bar that the respondent is a law graduate, therefore, he cannot take a plea of ignorance of law. Ignorance of law is no excuse much less by a person who is a law graduate himself”.

Having regard to the facts and circumstances of the case, this Court does not find any reason to interfere with the order of punishment.

Writ petition stands dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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