IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 22893 of 2013

Umesh Prasad Jha, Son Of Late Bhola Prasad Jha, Resident Of Village And P.O. Rahua, P.S. Rosera, District Samastipur

... ... Petitioner/s

Versus

1. The United Commercial Bank (UCO Bank in short) through its Chairman, 10 BTM Sarani, Brabourne Road, Kolkata
2. Sri Rajiv Yadav, General Manager-Cum-Appellate Authority, Personnel Services Department, Uco Bank Central Office, Kolkata
3. The Deputy General Manager-Cum-Disciplinary Authority, UCO Bank, Zonal Office, Mauryalok Complex, New Dak Bungalow Road, Patna
4. The Zonal Manager, UCO Bank, Zonal Office, Maurya Lok Complex, 4th Floor, Block- 'A' New Dak Bungalow Road, Patna
5. Sri H.P. Sahu, Enquiry Officer (UCO Bank), Shitla Mandir Road, Teghra, District Begusarai

... ... Respondent/s

Appearance :
For the Petitioner/s : Mr Durga Nand Jha, Advocate
For the Respondent/s : Mr Ranjeet Kumar Pandey, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 29-07-2019

Heard learned counsel for the petitioner as well as the learned counsel for the respondent Bank.

2 The petitioner, who was working in the respondent-Bank as an Assistant Manager has been visited with punishment vide order dated 28.01.2012. The petitioner has been imposed the penalty of dismissal from Bank service. The order of the Disciplinary Authority as well as the order rejecting his appeal by the Appellate Authority dated 27.04.2013 has also been assailed in the instant proceedings.

3 Referring to the Communication (Annexure D series) that is the report submitted by the Enquiry Officer. Petitioner's counsel submits that the same is proof of the fact that the petitioner was not served with notice and, as such, the ex parte order passed by the Disciplinary Authority and the order passed by the Appellate Authority affirming the punishment ex parte is unsustainable in the eyes of law.

4 Learned counsel for the Bank submits that the Bank had issued four registered notices to the petitioner-delinquent. Two notices dated 29.09.2011 and 09.10.2011 were returned unserved. However, the other two notices dated 22.09.2011 and 22.10.2011 were served on the petitioner. Specific averments to this extent are to be found in the same Annexure D series relied upon by the petitioner. Learned counsel for the Bank, therefore, submits that it is not a case of non-service of notice. He also draws attention of the Court towards the petitioner's response dated 03.06.2011 to the charge memo dated 12.05.2011.

5 This Court would consider it appropriate to record the details as the same is relevant for considering the petitioner's case properly. The statement of allegations dated 12.05.2011 is to the extent that the petitioner, while functioning at Surajgarha Branch from 14.12.2007 to 22.03.2011 has indulged in unauthorized debiting of accounts from the various profit and loss accounts, suspense accounts and other accounts of the Branch on various dates and deposited amounts in his own Savings Bank Account No 04010100024454. The Bank alleged that in this manner, he has derived wrongful gain for himself and caused loss to the Bank. Response of the petitioner in respect of the said entries/allegations is as follows:

> *"As regard other remaining entries from Sr No 22 to 61 except than 32 was debited by me in perplex mind. At that time, my son was hospitalized at New Delhi. There, he had to pay the medical expenses bill in the hospital. He demanded money for the payment of medical bill. At that time, I was alone in the branch and could not proceed on leave to arrange money.*
>
> *Under above circumstances, I committed the mistake with intention to repay the amount. Accordingly, I have paid the entire amount of the bank which I had debited in different A/cs.*
>
> *I accept my mistake but my intention was not wrong. Hence, pardon me for the mistake. I undertake this sort of mistake will not be committed in future."*

6 The charges made in the charge memo stands admitted. Petitioner, however, has tried to explain the circumstances which compelled him to commit such an error. The standard of conduct and commitment from persons employed in Banks dealing with public money is very high.

7 This Court would, therefore, find that there was due service upon the petitioner and he has chosen not to participate in the proceedings. Having regard to decision of the Apex Court in the case of Board of Director, Himachal Pradesh Transport Corporation & Another -Versus- K C Rahi, 2008 (11) Supreme Court Cases 502, petitioner cannot be heard to contend that he has been deprived the opportunity of hearing. The Apex Court has clearly laid down the law that such conduct amounts to waiver of natural justice and in such circumstances, natural justice cannot apply as a straight jacket formula to the case of the petitioner. Admission of the petitioner by itself, in relation to allegations made in the charge memo leaves no room for relief in the instant proceedings.

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

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2019
Transmission Date	NA