IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13546 of 2005

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Keshava Mandal son of Late Mannu Mandal, resident of village Ramnagar, Morcha, P.O. Jamalpur, Police Station Nay Ram Nagar, District, Munger.

... ... Petitioner/s

Versus

1.Allahabad Bank through its chairman-cum-M.D. & Netaji Subhas Road, Kolkatta.
2. Dy. General Manager-cum-Appellate Authority Allahabad Bank, Regional Officer, Budh Marg-Patna.
3. Assistant General Manager-cum-Disciplinary Authority Allahabad Bank, Regional office, Budh Marg, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava, Advocate.
Mr. Krishna Murari, Advocate.
For the Respondent/s : Mr. Shambhu Nath, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

15 06-09-2019 1. Heard learned counsel for the petitioner as well as learned counsel representing the Bank.

2. The petitioner in the instant proceedings has approached this court for quashing of the order dated 10.06.2003 issued by the Disciplinary Authority whereby the petitioner has been dismissed from service.

3. The appellate authority/respondent no. 2 has rejected the petitioner’s appeal against the order of dismissal vide its order dated 24.11.2004. The said order has also been assailed in instant proceedings.

4. At the relevant point of time the petitioner was posted as Branch Manager of Nawagachia Branch of the

respondent Bank. On 16.08.2000 the petitioner was served with a memorandum/charge the same contains statement of several articles of charges framed against the petitioner. Substance of the charges was of reckless manner of the financing. The matter was enquired by the Inquiry Officer. Counsel for the petitioner submits that from the memo of charges it is evident that the allegations at best constituted some error of Judgment, and, charge memo does not disclose any misconduct.

5. The charge memo does not disclose any actual loss caused to the bank. It also does not disclose any extraneous consideration in exercise of discretion so as to cause financial loss. He further submits that since the authorities were conscious that they could not sustain the allegations as framed in the articles of charges against the petitioners, they have further broken down the charges and dealt with individual accounts under every article of charge only within intention to somehow arriving at a conclusion of the petitioner's guilt. The petitioner has exercised his best Judgment in disbursing loans. In view of the nature of charges, no breach of entrustment emerges and therefore the proceeding arising out of such charges are not sustainable in the eyes of law.

6. It is also submitted by the petition's counsel that the

Presenting Officer has not produced sufficient material before the Inquiry Officer in support of all individual accounts after breaking down of articles of charges. He highlights that findings in respect of some of the accounts is scanty. It is submitted that in view of the aforesaid infirmities the punishment awarded to the petitioner by the disciplinary authority is unsustainable in the eyes of law.

7. It is his last submission that the nature of allegations which at best constitute an error of Judgment. It is also submitted that charges have been held to be proved without any evidence in support of any of the charges. The authorities should thus have taken a linient view with respect to the punishment. The punishment of dismissal is highly excessive and grossly disproportionate to the charges proved in the enquiry.

8. The Inquiry Officer has considered the charges with insufficient material and as such petitioner’s counsel prays that the findings of the disciplinary authority are unsustainable.

9. Counsel for the Bank, on the other hand, submits that the allegations in the charge memo highlight the reckless manner in which the petitioner, ignoring the standard norms of financing, and without ensuring proper utilization of the fund by

creation of assets has proceeded to grant loans one after the other sometimes to the same lonees, lefts no room for doubt that the petitioner is guilty of misconduct. The memorandum of charges are in respect of misconduct as defined under clause 3(i) Allahabad Bank Officer Employees (conduct) Regulation, 1976. Any discharge of duty without integrity, devotion and honesty is a misconduct and punishable under the Disciplinary Appeal Regulations Act, 1976.

10. Placing reliance upon the Judgment in the case of ***Chairman and Managing Directors, United Commercial Bank & Others vs. P.C. Kakkar (2003)4 SCC 364.*** He submits that from bare perusal of paragraph-14 of the said Judgment it is evident that the standard of care and conduct based on prudence expected from employees of a bank is very high indeed. The entire banking system is based on financial transactions which are executed or implemented through the various employees. Employees of a bank in the circumstances are required to exercise extreme care and prudence while advancing loans. Bank employee should observe fiscal discipline. He submits that once the discipline has been breached the desirability of retaining such an employee in bank services ceases. The petitioner cannot be permitted to raise any plea that no actual

loss has been caused to the bank or that he has not advanced the loans for any personal gains. From bare perusal of the charges it is evident that the manner in which loans have been sanctioned repeatedly in favour of the same lonees without creation of assets and in some cases in favour of fictitious entities has rendered the advances to be not recoverable or have created a circumstance where the bank is likely to suffer a huge loss. Dealing with public money in the aforesaid manner, is sufficient, by itself to punish the petitioner.

11. It is further submitted that the charges have been proved in the enquiry on the basis of material. Sufficiency of the material is not an aspect which the petitioner can be permitted to raise in these proceedings under Article 226 of the Constitution of India. In this connection he refers a Judgment in the case of ***Union of India & Others vs. P.Gunasekaran (2015) 2 SCC 610.***

12. Petitioner has not alleged any other procedural lapse. Charge memo was served on the petitioner before the Inquiry Officer he was allowed adequate opportunity. Witness and material were produced before the Inquiry Officer in presence of the delinquent whereafter the delinquent was afforded opportunity of cross-examination. After issuance of

second show cause notice and considering the petitioner's response thereto, the disciplinary authority has passed a reasoned and considered order.

13. This Court would find that the disciplinary authority has found only three charges to be fully proved out of seven article of charges. Thorough scrutiny of the disciplinary authority is evident from the fact that in respect of remaining four charges, the same have been held to be partly proved. Break down of the article of charges allows the petitioner the benefit of an adequate opportunity to respond and deal with all the individual accounts, which were covered in one article of charge. The breaking down of the charges was done at the very initial stage in the statement of imputations of misconduct furnished in respect of the article of charges along with the charge memo. Breaking down of the charge is not a subsequent event. The petitioner has participated in the enquiry after the charges have been broken down and mentioned with respect to individual accounts, which were considered before the Inquiry Officer. The charges have been held to be proved after thorough enquiry. Even though all the charges have not been proved the number of charges proved in respect of the number of accounts wherein the petitioner has committed reckless financing are

sufficient to sustain the finding of dismissal from service. Continuance of such an employee in a bank service dealing public money is wholly undesirable in view of the judgment of the Apex Court in the case of P.C. Kakkar (Supra).

14. Having considered the rival submissions this court has examined the records of the inquiry. The Inquiry Officer has dealt with the charges in detail and it is only because of the fairness in the procedural proceedings adopted by the Inquiry Officer that some of the charges could not be proved.

15. The bona fide manner in which the enquiry has been conducted is evident from the records. The records show that while discharging his duties as Branch Manager the petitioner has indulged in advancing of loans in the most reckless manner without having regard to creation of assets pursuant to the grant of loans. Overlooking such facts he has proceeded to grant repeated loans to the same lonee. The circumstances are such that the custodian of public money has put the same in jeopardy. Same has been repeatedly in the case of P.C. Kakkar. Further this Court would observe that records of enquiry make it clear that all procedural formalities have been observed and there is no infirmity in the decision making process. In view of the judgment of the apex Court in the case of

P.G. Gunasekaran (Supra), submission of the petitioners that the findings of the enquiry should be set aside due to insufficiency of evidence is not tenable. This Court would not scrutinize the material as an appellate Court. On the contrary, this Court exercising judicial review is to confine its scrutiny to the decision making process which does not suffer from any legal infirmity.

16. In the circumstances this court is not inclined to interfere with the findings of the Inquiry Officer which after due opportunity have been affirmed by the disciplinary authority. The appellate authority has also given due consideration to the appeal filed by the petitioner. The order of the appellate authority also does not call for any interference.

17. The writ petition is devoid of any merit and same is dismissed.

(Madhuresh Prasad, J)

T.Kr./-Rahul Mishra.

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