

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20598 of 2011

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Krishna Mukhi S/O Late Ratan Lal Mukhi Resident Of Moh. Babu Saheb Colony, Kashipur, P.O. And P.S. Laheriasarai, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State Bank of India
2. The Chief General Manager and Appellate Authority, State Bank Of India, Local Head Office, West Gandhi Maidan, Patna.
3. The Deputy Managing Director, State Bank Of India, Corporate Headquarters, Mumbai.
4. The Deputy General Manager, State Bank Of India, Zonal Office, Ranchi.
5. The General Manager Network-II, Vigilance Department, State Bank Of India, Local Head Office, West Gandhi Maidan, Patna.
6. The Reviewing Committee, State Bank Of India, Corporate Headquarters, Mumbai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Adv. Mr. Raj Kumar, Adv. Mr. Dilip Singh, Adv.
For the Respondent/s	:	Mr. Kaushlendra Kumar Sinha, Adv. Mr. Sunil Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-05-2019

Heard learned counsel for the petitioner and counsel for the State Bank of India.

in the present writ application, the petitioner has prayed for quashing of the order dated 30.8.2010 (Annexure-11) passed by the Review Committee confirming the order passed by the Appellate Authority cum Chief General Manager dated 23.9.2008 whereby and whereunder the punishment to the petitioner has been confirmed. The petitioner has also prayed for quashing of the order



dated 11.06.2007 (Annexure-6) passed by the Disciplinary Authority cum General Manager (Network-II) wherein the petitioner has been awarded punishment of removal from service.

The petitioner was appointed as Clerk and joined in service on 24.11.1983. He was promoted in J.M.G.S. Grade-1 on 1.8.1994. Again the petitioner was promoted to the post of M.M.G.S.-II on 9.2.2014. While discharging the duty in the M.M.G.S.-II, a charge-sheet was served upon him with serious allegation made against the petitioner. The enquiry was conducted, the Enquiry Officer submitted the report on 16.12.2006, in the case of the petitioner, the Deputy General Manager was the Disciplinary Authority who disagreed with the enquiry report, served the memo of disagreement vide letter no. 17.2.2007, which the petitioner replied on 1.3.2007, after consideration, the General Manager vide order dated 11.6.2007, without giving any opportunity of hearing to the petitioner, passed the order of dismissal from service. The petitioner filed appeal before the Chief General Manager cum Appellate Authority vide appeal dated 27.7.2007, the Appellate Authority passed the order dated 23.9.2008 modifying the punishment by reduction in lower grade in the service in the pay-scale of J.M.G.S.-I, whereafter, the petitioner filed review vide application dated 23.9.2008 of the



appellate order and the same was also rejected vide order dated 16.12.2010.

In the present case, the issue has been raised that the notice of disagreement was given by the Deputy General Manager Network-II who was the Disciplinary Authority and it is he who has shown disagreement with the enquiry report. When it was referred to the General Manager to pass an order, then it was the duty of the General Manager that he should have given an opportunity of hearing to the petitioner and only then he could have passed the order but, without following that procedure, the order has been passed by the General Manager which is illegal, violating the principle of natural justice and, for that, the petitioner has placed reliance on the judgment passed in C.W.J.C. No. 2739 of 2000 (Kamal Kishore Prasad Vs. State Bank of India & Ors.) wherein the provision of Rule 68(3)(iii) of the State Bank of India Officers' Service Rules has been considered and explained having stated that in the case of Major penalty, the order of punishment is to be passed by the Appointing Authority. The Disciplinary Authority will proceed, when disagreement with the enquiry report is recorded, then he would be obliged to transmit all the records to the Appointing Authority then the Appointing Authority ought to have given an opportunity of hearing and, only then, he could have



passed the order against the petitioner. This order has attained finality up to the stage of Hon'ble Apex Court.

Learned counsel for the State has tried to justify the action of the Bank having stated that the General Manager is the Appointing Authority of J.M.G.S.-II and, as such, there is no infirmity in the order but, he has accepted that before passing the impugned order, the General Manager has not given an opportunity of hearing to the petitioner before arriving to a finding of punishment.

Having considered the rival contentions of the parties, when the Deputy General Manager did not agree with the findings of the Enquiry Officer, he was required transmit the matter to the Appointing Authority and the Appointing Authority was required to give a detailed hearing to the petitioner and to record his wisdom and take a decision in accordance with law. This part of the procedure has not been followed.

In that view of the matter, the order of punishment dated 11.6.2007 (Annexure-6) as well as the order of appeal dated 23.9.2008 (Annexure-8) are set aside and the matter is remanded back to the General Manager who, after giving an opportunity of hearing to the petitioner, will take a decision in accordance with



law without being prejudiced by the previous order passed by the
Appointing Authority.

It is made clear that this Court is not giving any opinion
on the merit of the case. Any relief to the petitioner will be subject
to the final result of the proceeding.

In the result, this writ application stands allowed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	

