IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3132 of 2004

Rajendra Ram, son of Mahabir Ram, Resident of Village – Rajola, PS – Kurahani, District - Muzaffarpur

... ... Petitioner/s

Versus

1 The District Magistrate -cum- Administrator, Muzaffarpur Central Cooperative Bank Ltd, Muzaffarpur
2 Managing Director, the Central Cooperative Bank, Muzaffarpur
3 Manager, Administration and Development, the Central Cooperative Bank, Muzaffarpur
4 Branch Manager, the Central Cooperative Bank, Sakra, District – Muzaffarpur
5 Registrar, Cooperative Society, State of Bihar, Patna
6 The State of Bihar

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr Uday Chand Prasad, Advocate
For the S t a t e	:	Mr Niraj Kumar, AC to GA X
For the B a n k	:	Mr Rakesh Kr Jha, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 05-07-2019

Heard learned counsel for the petitioner and the respondent-Bank.

2 Petitioner is aggrieved by his dismissal from service of the Bank. Learned counsel for the petitioner submits that the copy of the enquiry report was not handed over to the petitioner. Having regard to the decision of the Apex Court in the case of *Managing Director, ECIL, Hyderabad & Others -Versus- B*

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Karunakar & Others, (1993) 4 Supreme Court Cases 727, such a lapse constituted a grave procedural irregularity. The findings of the Enquiry Officer and the Disciplinary Authority, therefore, cannot be sustained in the eyes of law.

3 His other submission is that before the authorities, he has specifically pleaded that primarily the Branch Manager was responsible for the illegal deposits and withdrawals from the accounts. Though petitioner admits to have signed the vouchers on the basis of which amounts were deposited and withdrawn from the accounts in the Bank but he submits that the same was under duress. The Branch Manager had let lose a reign of terror in the Branch and the petitioner was intimidated. He had no option but to sign the vouchers. It is his submission that such defence of the petitioner was required to be considered by the authorities. The same has not been done. Respondents have visited the petitioner with the extreme penalty of dismissal from service by the order impugned in the instant proceedings. The Branch Manager, on the other hand, has been dealt with leniently and awarded the punishment of withholding of increments. Petitioner alleges discrimination in the matter of grant of punishment. In support of his submission, he places reliance on decision of this Court in the

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case of *Sudhir Kumar Srivastave -Versus- Allahabad Bank through its Chairman & Others, 2003 (4) PLJR 604.*

4 The Appellate Authority, in the order dated 18.02.2003 passed on the petitioner's appeal, has gone into this aspect of the matter having regard to the fact that the swindling of the amounts in the Bank could not have been perpetrated if the Branch Manager had exercised due diligence, the Appellate Authority has directed for reopening of the departmental proceedings against the Branch Manager. Role of the Branch Manager has also been considered to be subjected to further enquiry as he was equally responsible to take steps to ensure that amounts were not misappropriated or defalcated.

5 Learned counsel for the Bank submits that due opportunity was granted to the petitioner prior to the order of punishment. Non-supply of enquiry report, as alleged, caused no prejudice to the petitioner in view of his factual admission of the charges, though he has tried to justify the same by alleging that the same had occurred on account of intimidation at the hands of the Branch Manager. It is further submitted that the findings of the Appellate Authority cannot enure to the benefit of the petitioner. The findings are not such so as to absolve the petitioner in any manner of the charges having regard to his specific admission

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before the authorities. The order of the Appellate Authority was to ensure that for commission of such a grave charge, which has been done by the petitioner, the Branch Manager should also be proceeded against properly. It is in this context that the Appellate Authority had directed for reopening the proceedings against the Branch Manager.

6 The said submission appears to be correct from bare perusal of the order passed by the Appellate Authority. Further submission of the learned counsel for the Bank is that the Branch Manager has, thereafter, passed away. In view of the said subsequent development, the Authorities could not reopen the proceedings against the Branch Manager.

7 In view of the specific admissions of the petitioner contained in his show cause filed to the charge memo, contained in Annexure 6 of the writ proceedings, this Court is not inclined to interfere with the punishment awarded to the petitioner.

8 Writ petition is devoid of merit.

9 Petitioner's counsel submits that there are some dues on account of subsistence allowance.

10 If that be so, petitioner will be at liberty to raise his grievance before the authorities for grant of dues on account of subsistence allowance for the period of suspension.

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11 Writ petition is dismissed.

(Madhuresh Prasad, J)

<u>M.E.H.</u>/-

AFR/NAFR	NAFR
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