

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20594 of 2016

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Gajendra Kumar Jha Son of late Bisheshwar Jha Resident of VillagePost-
Hariharpur, P.S.- Kamtaul, District- Darbhanga. At Present office Assistant,
Kharka, Branch Kharka Uttar Bihar Gramin Bank Sitamarhi.

... .. Petitioner/s

Versus

1. Chairman Uttar Bihar Gramin Bank and Ors
2. The General Manager cum Disciplinary Authority Uttar Bihar Gramin Bank,
Head Office, Muzaffarpur.
3. The Inquiry Officer cum Branch Manager, Uttar Bihar Gramin Bank Branch
Arariya chauk, Sitamarhi.
4. Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate Mr. Rajeev Ranjan, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha, Advocate Mr. Mukund Mohan Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 25-11-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:

“1. That the present writ application is being filed on behalf of the petitioner for the issuance of writ in nature of certiorari or any other writ/writs, direction/directions, order/orders for setting aside the order of dismissal dated 5.8.2016 vide letter no. 839 passed by the respondent no. 2 in the capacity of disciplinary authority in terms Rules/Regulation 39(2)(b)VI of Uttar Bihar Gramin Bank (Officers and employee) Service Regulation 2010 and further in the capacity of appellate authority, also decline to decide the petitioner memo of appeal referring Regulation 49 of Service Regulation (Appeal not preferred within stipulated



period 45 days) vide letter no. 401 on 27.10.2016 and further for the issuance of direction to the respondents for the reinstatement of this petitioner as office assistant with all monetary benefits payable to him from the date of his dismissal.”

3. The petitioner was subjected to disciplinary proceeding which was concluded in imposition of penalty of dismissal from service on 05.08.2016. Being aggrieved and dissatisfied by the order of dismissal, petitioner has preferred a appeal before the appellate authority on 26.05.2016 and it was rejected on 27.10.2016 on the sole ground that appeal was not within a period of 45 days from the date of receipt of order of dismissal.

4. Learned counsel for the petitioner submitted that order of dismissal dated 05.08.2016 was not communicated to him. Thereafter he had approached the disciplinary authority and he had provided the order of dismissal.

5. Both the learned counsels for respective parties are not in position to apprise this Court about communication of order of dismissal dated 05.08.2016. At this stage, it is necessary to reproduce Regulation No. 49 of the Uttar Bihar Gramin Bank (Officers and Employee) Service Regulations, 2010 (for short “Regulations, 2010”), which is as under:

“49. Right to appeal.-
(1) An officer or employee may prefer an appeal against any order



passed under these regulations to the Appellate Authority mentioned in regulation 50 within a period of 45 days from the date of receipt of such order.

(2) The Appellate Authority shall decide the appeal and pass order preferably within a period of 6 months from the date of receipt of the appeal.”

6. Perusal of the Regulation No. 49 it stipulates that officers and employees were permitted to prefer an appeal against the order passed under the Regulation within a period of 45 days from the date of receipt of such order. There is no material information relating to communication of dismissal order dated 05.08.2016 to the petitioner. That apart, issue is that there is delay in preferring appeal, word used in Regulation No. 49 that an officer and employee preferred an appeal and it is not mandating the officer or employee to submit the appeal within 45 days, in other words, if appeal is presented beyond 45 days it is condonable. In fact, in the present case, there is not much delay having regard to the date of dismissal order dated 05.08.2016 and presentation of appeal dated 15.10.2016 read with the appellate authority's order dated 27.10.2016.

7. In the light of aforesaid facts and circumstances appellate authority's order dated 27.10.2016 is set aside. The matter is remitted back to the appellate authority to decide the petitioner's appeal on delay and merits within a period of three



months from the date of receipt of copy of this order. The petitioner is permitted to file additional memorandum of appeal, if any, within a period of four weeks from today.

8. Accordingly, the instant petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.12.2021
Transmission Date	

