IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3775 of 2007

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UMESH KUMAR SINGH

... ... Petitioner/s

Versus

VAISHALI KSHETRIYA GRAMIN BANK AND OTHERS

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar
For the Respondent/s	:	Mr.Prabhakar Jha

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 25-11-2021

In the instant petition, petitioner has sought for following relief/reliefs:

> "This application is for issuance of appropriate writ/writs commanding the Respondents for reinstating the petitioner with all consequential benefits and treating him in continuous service by setting aside the entire exparte disciplinary proceeding by declaring it illegal by quashing the wrong and illegal memo of charge dt.29.12.98 (Annexure -8) cryptic enquiry Report dt. 17.06.99 (Annexure 14) and Dismissal order bearing memo No- 397 dt. 28.03.2000 (Annexure-19) passed by Respondent illegally by violating Principles of natural justice, equity and good conscience and further Respondents may be directed to pay arrears of salary of suspension period from 17.12.96 to 29.12.98 by declaring the suspension of the petitioner illegal and unjustified."

2. Petitioner while working as a Branch Manager of Vaishali Kshetriya Gramin Bank respondent herein placed the petitioner under suspension for the alleged misconduct and he was subjected to disciplinary proceedings. The charges are as under :

"1. The amount received from customers on different dates for deposit in their accounts were not accounted for in the Bank's Cash. The Amount was duly posted in the Pass Book as well as in the Ledger but it was not recorded in the Cash Receipt Register of the Branch. The amount of Cash thus received was pocketed by Mr. Singh for his personal undue gains. For example:-

DT. OF RECEIPT	HSS A/C NO.	AMOUNT OF DEPOSIT (Rs.)
05/10/95	99	7,000=00
20/06/96	712	10,000=00
03/03/94	791	10,000=00
17/04/95	1534	5,000=00
31/12/93	1641	15,000=00
21/12/94	1753	13,500=00

2. On different dates amounts were fraudulently withdrawn from different HSS A/Cs by forged withdrawals/without withdrawals showing payment in Cash Payment Register/Supplementary Register but it was not posted in Pass Book/ relevant ledger. The amount of Cash thus fraudulently withdrawn were pocketed by Mr. Singh for his personal undue gains.

DT. OF PAYMENT	HSS A/C NO.	AMOUNT PAID (Rs.)
09/04/96	132	10,000=00
28/08/95	1199	20,000=00
05/09/95	1199	10,000=00
01/07/95	1609	10,000=00
16/07/96	2582	21,000=00
24/08/96	3104	20,000=00
26/08/96	3104	10,000=00

3. By manipulating the figure of Cash in Hand in Cash Book/G.L.B. as of 06/07/1993 an amount of Rs. 1,00,000/- was pocketed by Mr. Singh & his the then Clerk cum cashier Mr. Umesh Kumar Verma for their personal undue gains.

4. (a) On 8/2/1994 amount of Rs. 30,000/- was withdrawn from S.B.I. Chandwara for Cash Transaction vide cheque No. 831099 but Rs.25,000/- only was deposited at Salha Branch. Thus Rs.5,000/- was defalcated by Sri. Singh & his the then Clerk cum cashier Mr. Umesh Kumar Verma.

(b) On 29/03/1994 amount of Rs: 15,000/- was withdrawn from SBI, Chandwara vide cheque No.831511 but it was not accounted for in the Bank's Cash. Thus Rs:15,000/- was defalcated by Mr. Singh & his the then Clerk cum cashier Mr. Umesh Kumar Verma.

(c) On 12/05/1994 an amount of Rs:50,000/- was withdrawn from S.B.I. Chandwara for Cash Transaction vide cheque No. 31526 but Rs: 30,000/- only was deposited at Salha Branch. Thus Rs. 20,000/- was defalcated by Mr. Singh & his the then Clerk cum cashier Mr. Umesh Kumar Verma.

5. (a) On 01/10/1994 amount of Rs. 35,000/- has been shown paid to Mr.H.K. Singh as Demand Loan as per Cash Payment Register but the same has not been entered in the Demand Loan Register. Thus Rs. 35,000/- has been defalcated by Mr. Singh & his the then Clerk cum cashier Mr. Umesh Kumar Verma.

(b) On 15/10/1994 amount of Rs. 14,000/- has been shown paid to some one (Name illegible) as Demand Loan as per Cash Payment Register but the same has not been entered in the Demand Loan Register. Thus Rs:14,000/- has been defalcated by Mr. Umesh Kumar Singh & his the the Clerk cum Cashier Mr. Umesh Kumar Verma.

6. In order to shield his guilt Mr. Singh set fire to the Branch records in the night of 03/11/1996 by opening the grill gates/door with Duplicate Keys. Thus, many records were destroyed in the fire. He absconded from Muzaffarpur thereafter & did not report at Kathara Chowk Branch where he was transferred vide H.O. letter No:RRB/HO/PRS/20/96-97/C-17 ; Dated 19/10/1996."

3. The petitioner had submitted his say to the article of charges in the matter. Disciplinary authority dissatisfied with petitioner's explanation proceeded to hold a inquiry and

concluded in imposition of penalty of dismissal from service. The petitioner submitted that he had preferred appeal before the Appellate Authority on 15.02.2001 and it is disputed by the learned counsel for the respondent bank stating that no material information has been placed on record to show that appeal was presented by the petitioner on 15.02.2001, therefore, one has to draw inference that such a statement made by the petitioner that he had preferred an appeal cannot be entertained in the absence of material information provided. Even though writ petition is not maintainable in view of the fact the petitioner had not exhausted statutory appeal before the Appellate Authority, at the same time one cannot ignore the fact that the present petition is admitted and listed for hearing. In such a situation question of resorting the petitioner to approach the Appellate Authority is not warranted.

4. Learned counsel for the petitioner vehemently contended that the alleged allegations stated in the charge memo were subsequent to his transfer from Salha Branch to Katahara Chowk Branch on 19.10.1996. Whereas the perusal of the aforesaid charges are relating to 31.12.1993 to 26 08.1996. That apart there is a serious allegation in respect of alleged allegations relating in setting fire to the branch records on the night of 03.11.1996 and it was subject matter of criminal proceedings in which the petitioner

is stated to have been acquitted. It is further submitted that it is an ex parte inquiry and petitioner had requested for certain records from the respondent bank which was made available.

5. *Per contra*, learned counsel for the respondent bank submitted that the alleged allegations stated in the charge memo are relating to the period when petitioner was Branch Manager of Salha and not after 19.10.1996 the date on which he was transferred from Salha Branch to Katahara Chowk Branch. It is further submitted that even assuming that in so far as charge no. 6 is concerned if it was a subject matter of criminal proceedings in which petitioner was acquitted, the remaining charge nos. 1 to 5 suffice to impose penalty of dismissal from service. In not providing the documents the petitioner had remedy before the Disciplinary Authority or before this Court at the relevant period of time, he has not invoked the aforesaid remedies that apart he has not filed appeal before the Appellate Authority against the order of dismissal dated 28.03.2000. Therefore, there is no infirmity in the order of the dismissal.

6. Heard learned counsel for the respective parties. Undisputed facts are that petitioner was working as a Branch Manager till 19.10.1996. The alleged charges are extracted supra are in respect of various dates from 31.12.1993 to 26.08.1996 and

03.11.1996. The petitioner has not furnished any material information so as to draw inference that such alleged charges are related to 19.10.1996. Even though petitioner was acquitted in respect of alleged charges relating to setting fire to the branch records on the night of 03.11.1996, the remaining charge nos. 1 to 5 suffice to impose major penalty of dismissal from service for the reasons that customers of the petitioner bank have trust with the bank. The petitioner being a manager of the Branch should have discharged duties in accordance with the regulations of the Bank. The petitioner has not furnished any material to show that he had filed appeal before the Appellate Authority. Filing of appeal and to that extent statement made in the pleadings and it is being disputed by the respondent bank. In all fairness, the petitioner should have furnished material proof that he had preferred an appeal on 15.02.2001. In the absence of material proof the statement of the petitioner that he had filed appeal cannot be accepted. The petitioner had cause of action in respect of demanding certain documents in the year 1998. He has not made any efforts in pressing for furnishing documents before the Disciplinary Authority or invoking Article 226 of the Constitution in approaching this Court. In not furnishing the demanded documents contention by the petitioner is only to overcome the order of dismissal dated 28.03.2000. Even though the order of dismissal is an ex parte. At the same time petitioner has not apprise this Court as to what efforts have been made by him that such an ex parte order was passed by the respondent bank in the absence of providing opportunity to the petitioner.

7. Perusal of records. It is evident that petitioner was provide ample opportunity before he was dismissed from service, the same was not utilised by him in appropriate stage and manner. In the light of the aforesaid factual aspects of the matter, the petitioner has not made out a case.

8. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2021
Transmission Date	NA