

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1235 of 2018

In
Civil Writ Jurisdiction Case No.6898 of 2002

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Dhrub Narayan Jha son of Late Bindeshwar Jha, Resident of Village-
Sibbipatti, P.S. Rajnagar, District- Madhubani.

... .. Appellant/s

Versus

1. Madhubani Kshetriya Gramin Bank Through Its Chairman and Ors
2. The Board of Directors Appellate Authority Madhubani Kshetriya Gramin Bank Parishad Bazar Madhuba
3. The Chairman, Parishad Bazar Madhubani, P.S. Madhubani Sadar, District- Madhubani.
4. The Disciplinary Authority, Parishad Bazar Madhubani, P.S.- Madhubani Sadar, District- Madhubani.
5. Madhubani Kshetriya Gramin Bank, Raghapur Baraha Branch through its Manager, P.S. Bisfi Patruna, D

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Amish Kumar, Advocate Mr. Prabhakar Thakur, Advocate
For the Respondent/s	:	Mr.,Prabhakar Jha, Advocate Mr. Harimohan Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-10-2022

Heard learned counsels for the respective parties.

2. In the instant appeal, appellant has assailed the order
of the learned Single Judge dated 02.07.2018 passed in C.W.J.C.
No. 6898 of 2002.



3. The appellant was subjected to disciplinary proceedings and it was concluded in imposition of penalty of dismissal from service on 02.05.2000 and it was affirmed by the appellate authority on 30.04.2002. Still aggrieved by the order of the disciplinary and appellate authorities, appellant invoked remedy under Article 226 of the Constitution before this Court in filing C.W.J.C. No. 6898 of 2002 and it was decided against appellant on 02.07.2018. Hence the present L.P.A. 1235 of 2018.

4. Learned counsel for the appellant restricted his argument for the time being that appellate authority's order dated 30.04.2002 is not a speaking order with reference to memorandum of appeal dated 23.05.2000. Appellate authority's order reads as under:

" मधुबनी क्षेत्रीय ग्रामीण बैंक

प्रधान कार्यालय, परिषद बाजार, मधुबनी

तार : ग्रामीण बैंक, दूरभाष – 06276 23414, फैक्स – 06276 24194

पत्रांक:अ 0 स 0:आदेश: 24:2002:04: सं०. 14

दिनांक : 30.04.2002

आदेश

श्री ध्रुव नारायण झा, शाखा पदाधिकारी, मधुबनी क्षेत्रीय ग्रामीण बैंक को अनुशासनिक प्राधिकार के द्वारा प्रधान कार्यालय पत्र अ 0 स 0 / आदेश / 22 / 05 / 2000 / सं० 03 दिनांक 2 मई 2000 से दण्डित किया गया था। श्री झा ने उक्त आदेश के विरुद्ध बैंक के अपीलेंट अथोरिटी (निदेशक मण्डल) के समक्ष अपील किया था। अपीलेंट अथोरिटी के द्वारा उनके अपील पर दिनांक 13.02.2002 को विचार किया गया।



अपीलेट अथोरिटी ने श्री झा के अपील पर विचार के क्रम में उनके उपर लगाये गये आरोपों , जाँच सम्बन्धित कागजात, जाँच पदाधिकारी के प्रतिवेदन , अनुशासनिक प्राधिकार के निर्णय, उनका पिछला असंगत व्यवहार पर पूर्ण विचारोपरान्त पाया कि श्री झा के द्वारा शाखा राघोपुर बरहा में अनेक प्रकार का कदाचार किया गया जिसमें बैंक राशि का गबन / कपट एवं बैंक कागजातों को गायब / नष्ट करना भी शामिल है , जिससे बैंक को आर्थिक क्षति हुई और बैंक का छवि धूमिल हुआ । श्री झा को जाँच कार्यवाही के दौरान बचाव हेतु समुचित अवसर प्रदान किया गया था। उनके अनुसार ऐसे अधिकारी का बैंक सेवा में बना रहना अवांछनीय है ।

अतएव अनुशासनिक प्राधिकार द्वारा पारित दण्ड “बैंक सेवा से हटाया जाना जो भविष्य के नियोजन के लिये निरहर्ता नहीं होगा” बरकरार रखा गया । उनके कारण बैंक को हुई आर्थिक क्षति के लिये उनके विरुद्ध विधि सम्मत कार्रवाई की जाय ।

प्रेषित,

श्री ध्रुव नारायण झा,

बैंक कॉलोनी, पुरानी चट्टी,

शंकर चौक के नजदीक, मधुबनी

(आर. एन. सनगही)

अध्यक्ष”

5. *Prima facie* the appellate authority has not considered each of the contentions stated in the memorandum of appeal dated 23.05.2000. It was bounden duty of the appellate authority to examine each of the contentions raised by the appellant in his memorandum of appeal. Apex Court in the case of ***Secretary and Curator, Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity and Others*** reported in (2010) 3 SCC 732 held that appellate authority's order must be reasoned and speaking order. Further in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in (2010) 9 SCC 496, Para 47 elaborately



considered as how the judicial, quasi-judicial and other orders should be. Para 47 reads as under:

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.



(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anyia v. University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

6. In the light of the aforesaid principles laid down by the Apex Court, order of the appellate authority dated 30.04.2002 and learned Single Judge order dated 02.07.2018 passed in C.W.J.C. No. 6898 of 2002 stand set aside. Matter is remanded to the appellate authority to consider the appellant’s memorandum of



appeal dated 23.05.2000 afresh in the light of principles laid down in the Apex Court decisions cited *supra*.

7. Appellate authority is hereby directed to decide appellant’s appeal afresh within a period of four months from the date of receipt of this order and communicate the decision to the appellant. Appellate authority is also hereby directed to take note of Regulation No. 77 – Repeal and Savings of the Regulation called the Uttar Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
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