

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1283 of 2018

In

Civil Writ Jurisdiction Case No.3594 of 2013

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1. The State Bank of India through the Regional Manager, Regional Office, Muzaffarpur.
 2. Disciplinary Officer-Cum-Assistant General Manager (Administration), Administrative Office, State Bank of India, Muzaffarpur.
 3. Appellate Authority-cum-Deputy General Manager (Commercial and Operation), Administrative Office, State Bank of India, Muzaffarpur.

... .. Appellant/s

Versus

Ramadhar Sao S/o Shree Sao, Resident of Village and P.O.-Paharpur, P.S.-Madanpur, District-Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rakesh Kumar Singh, Advocate.
For the Respondent/s : Mr.Subodh Kumar Jha, Advocate.
Mr. Pranav Kumar Jha, Advocate.
Mr. Chandra Mohan Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 14-12-2022

Appellant has assailed the order of the learned Single Judge dated 16.05.2018 passed in C.W.J.C. No. 3594 of 2013. Respondent was appointed as messenger in the year 1997 in the State Bank of India which is a Class-IV post. He was subjected to disciplinary proceedings on the following allegations:

“During your posting at our ADB Ramnagar Branch, the undernoted irregularities of serious nature have been observed on your part. You acted negligently and committed several mistakes which are likely to expose the



Bank to incur substantial loss. Besides several lapses, few of them are illustrated below.

(a) you were on leave for 5 days up to 19.04.2008, but did not turn up to the Branch till the completion of the investigation i.e., 28.04.2008. There was no notice to the Branch in this regard.

(b) It has been alleged that you have been executing loan documents at your residence and at Bank Branch also.”

Disciplinary proceedings was concluded in imposition of penalty of dismissal from service on 08.01.2011 and it was affirmed by the appellate authority on 07.12.2012, hence the respondent invoked the remedy under Article 226 of the Constitution.

Learned Single Judge proceeded to allow the writ petition on 16.05.2018, hence the present L.P.A. by the State Bank of India.

Learned counsel for the appellant-State Bank of India vehemently contended that writ petition filed by the respondent is not maintainable as respondent has not exhausted statutory remedy available to him. In this regard, he has cited a decision of this Court passed in C.W.J.C. No. 7219 of 2016 dated 24.03.2022. On merits, it is submitted that it is a clear case of committing irregularities by the respondent and he was subjected to inquiry and there is no procedural error so as to interfere with the order of the dismissal as well appellate authority. The learned Single Judge has not appreciated that



there is compliance to the relevant disciplinary regulation.

On the other hand, learned counsel for the respondent resisted the aforesaid contentions and submitted that jurisdiction issue has not been raised by the appellant before the learned Single Judge. Therefore, in appeal he cannot raise. It is further submitted that alleged charge is very vague and it is not consistent of ingredients to constitute a charge. Therefore, no interference is called for in so far as order of the learned Single Judge dated 16.05.2018 passed in C.W.J.C. No. 3594 of 2013 is concerned.

Having heard the learned counsel appearing for the parties and have gone through the materials on records.

Learned counsel of the appellant raised preliminary issue that writ petition is not maintainable on the score that respondent had statutory remedy before the appropriate authorities. Identical issue has been settled by this Court in C.W.J.C. No. 7219 of 2016 dated 24.03.2022. The aforesaid decision is distinguishable in the present L.P.A. for the reasons that the appellant-Bank have surrendered their right or jurisdiction to Article 226 of the Constitution in C.W.J.C. No. 3594 of 2013. In L.P.A., they cannot turn around and say that writ petition filed by the respondent is not maintainable. That



apart, it is to be noted that respondent was dismissed from service on 08.01.2011 and it was affirmed by the appellant authority on 07.12.2012 and we are in the year 2022. It is more than one decade. Therefore, it is not appropriate to set aside the order of the learned Single Judge and asking the respondent to invoke appropriate remedy before the jurisdictional forum. Further, it is to be noted that after all the respondent is a Class-IV employee. Therefore, the contention of the appellant-Bank that writ is not maintainable, issue cannot be entertained at this distance of time and it is hereby rejected.

Having regard to the alleged allegations levelled against the respondent, like charge memo which has been quoted supra. Reading of alleged charge is not commensurate with the ingredients of constituting Article of charge. In other words, article of charge must be very specific with the time, date and other events. The ingredients are not forthcoming from the article of charge. Therefore, matter would go to the root of the matter that there is defect in initiation of inquiry like framing of article of charge. The Apex Court in the case of **Kumaon Mandal Vikas Nigam Ltd. v. Girja Shankar Pant and Ors.** reported in (2001) 1 SCC 182 and **Anant R. Kulkarni Vs. Y. P. Education Soccity and Others** reported in (2013) 6 SCC 515



held that charges must be very specific in a departmental enquiry in order to understand and counter the alleged allegation by the concerned employee.

Learned counsel for the appellant has not pointed out what is the error committed by the learned Single Judge except jurisdictional issue so as to interfere with the order of the learned Single Judge. Accordingly, L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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