

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4598 of 2021

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Rajneesh Sharan Son of Late Nirvikar Sharan Resident of Mohalla- Daudpur Kothi, gali No.3, P.O.- M.I.T. Brahampura, P.S.- Brahampura, Distt.- Muzaffarpur, presently posted as Officer, Canara Bank, Adigopalpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Canara Bank Through the General Manager, Canara Bank, HR Wing, Head Office, Bengaluru.
2. The General Manager Canara Bank, Luv- Kush Tower, Exhibition Road, Patna.
3. The General Manager Canara Bank, HR Wing, Head Office, Bengaluru.
4. The Deputy General Manager Canara Bank, HR Wing, Head Office, Bengaluru.
5. The Assistant General Manager Canara Bank, HRM Section, Circle Office, Near Mangala Talkies, Shivaji Nagar, Pune- 411005.
6. The Divisional Manager SME Sulabh, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shekhar Singh Mr. Sumit Kumar Mr. Avinash Kumar Singh
For the Respondent/s	:	Mr.Rajan Ghoshrave

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 09-02-2023 This writ petition has been filed for the following reliefs:

I) For quashing the order of punishment communicated vide Reference No. PCO HRM DA RS71052 CS(O) PP 06 2016 dated 15.07.2016 passed by the Disciplinary Authority-cum-Asst. Circle Office, Pune whereby and whereunder the disciplinary authority has awarded the punishment of petitioner of reduction to a lower grade i.e. from MMG Scale-II to JMG Scale-I with Basic Pay fixed at Rs



23700/-

ii) For quashing the order of Appellate Authority-cum-Deputy General manager, Canara bank, HRM Section, Circle Office, Bangluru dated 03.06.2017 whereby the appeal preferred against the order of punishment of disciplinary authority dated 15.07.2016 has been rejected.

iii) For quashing the order of Reviewing Authority-cum-Genral Manager, Canara Bank, HRM Section, Circle Office, through email letter dated 18.05.2020 whereby Review Petition preferred against the order of appellate authority has been rejected.

iv) For that the petitioner prays for quashing of the memo of charge bearing Ref. No. PNC HRM DA RJS 71050CS(O) 06/2016 dated 18.04.2016 and, the enquiry report and the entire departmental proceeding in the facts and circumstances stated herein this writ petition.

v) For any other relief/reliefs for which the petitioner is entitled.

Brief facts of this writ application are that, petitioner while serving as Manager, Chitegaon Branch, he was subjected to a departmental proceeding in issuance chargesheet dated 18.04.2016(Annexure-3) to the writ petition for grossly



deviating from the guidelines of the bank and sanctioning a large number of vehicle loans through single dealer without proper due diligence and without following system and procedure due to which the accounts have gone bad and the bank was exposed to huge financial loss even after the sale of the seized vehicles. A departmental enquiry was conducted and after considering the defence of the petitioner, the enquiring authority submitted its report dated 27.06.2016 holding the petitioner guilty of six charges. The disciplinary authority on receipt of the enquiry report, forwarded the copy of the findings to the petitioner giving him an opportunity to make submissions on the same. On receipt of the submission, the Disciplinary Authority considering the finding of the Enquiring Authority the gravity of the approved misconducts levelled against the petitioner passed an order dated 15.07.2016(Annexure-7) to the writ application by imposing the punishment of reduction to a lower grade that is MMG Scale II to JMG Scale I with basic pay fixed at Rs. 23,700/-. Aggrieved by the above punishment, the petitioner, preferred appeal before the appellate authority which was also rejected on 03.06.2017(Annexure-8) to the writ application. Thereafter the petitioner preferred a review petition before reviewing authority which was also rejected on



14.03.2019(Annexure-9) to the writ application.

Learned counsel for the petitioner makes a short submission to assail the order of punishment, appellate order and order of review that the charge no. 7 has not been found proved by the enquiry officer but from perusal of the of the order of the disciplinary authority it clearly transpires that the same has been treated as proved has been taken into consideration while passing the order of punishment which is contrary to law. No notice of disagreement was served before taking the charge no. 7 as proved while passing the order of punishment.

In other words he submits that, a charge which was not found proved by the enquiry officer against the petitioner has been taken into consideration by the disciplinary authority while imposing the order of punishment without issuance of point of disagreement which is illegal, unjustified and contrary to law. In this connection he has referred to the orders of the disciplinary authority where in charge no. 7 was also taken into consideration as if the same was proved by the enquiry officer.

On the other hand, learned counsel appearing on behalf of the respondent Bank, with reference to the averments made in the counter affidavit, submits that that the petitioner's



submissions were duly considered by the competent authority and appropriate authority of hearing was given to the petitioner.

After taking into consideration the entire materials available on record, including the show cause filed by the petitioner, the order of punishment has been passed and as such, there is no infirmity and illegality in the order of punishment and as such this petition is devoid of merit and fit to be dismissed.

Considering the rival submission of the parties, materials available on record, it is apparent from bare perusal of the impugned order, that charge no. 7 which was not found proved by the enquiry officer, has been taken into account by the disciplinary authority while passing the impugned order without giving notice of disagreement to the petitioner. It shows non-application of mind and on this score alone, the order of punishment is fit to be set aside.

Accordingly the impugned order as well as the order of the appellate authority, are hereby set aside and quashed.

Since the impugned orders are being quashed on the ground of procedural infirmities, the matter is remitted to the disciplinary authority to proceed against the petitioner from the



stage of second show cause and conclude the same in accordance with law.

This writ petition stands allowed following the aforesaid terms.

(Prabhat Kumar Singh, J)

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