

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18373 of 2010

1. R.P. Thakur, S/o Late Bipat Prasad Thakur (Deceased)
1.1 Smt. Jayanti Devi, Widow of Late R.P. Thakur.
1.2 Muneshwar Anand, Son of Late R.P. Thakur.
1.3 Rajeshwar Anand, Son of Late R.P. Thakur.
1.4 Sweta Rani, D/o Late R.P. Thakur.

All residents of Mohalla-Bank Colony, Bigrahpur Road, P.S.-Jakkanpur,
P.O.-G.P.O., District and Township of Patna.

... .. Petitioner/s

Versus

1. The Chairman Cum- Managing Director, UCO Bank, Head Office, 10 BTM Sarani, Kolkata-700001
2. The General Manager (Personnel), UCO Bank, Head Office, Salt Lake, Kolkata-700064
3. The Regional Manager, UCO Bank, Regional Office, Central Jail Road, Tilka Manjhi, Bhagalpur
4. The Assistant General Manager, UCO Bank, Regional Office, Bhagalpur
5. Sri A.K. Mishra, Senior Manager-Cum-D.C.O. (Credit) (PFM No. 38786) UCO Bank, Sabour, Bhagalpur, At Present Posted As Chief Officer, UCO Bank, Head Office, Retail Section, 10 BTM Sarani, Kolkata-700001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Bose, Sr. Advocate Mr. Vikash Jha, Advocate Mr. Ajay Kumar, Advocate
For the Respondent/s	:	Mr. Ranjeet Kumar Pandey, Advocate

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

Date : 22-03-2023

Heard learned counsel for the respective parties.

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

*“For quashing the order dated
13.06.2007, passed by the Assistant General
Manager (Respondent No.4) by which he has
ordered the petitioner downgrading him to Junior
Management Grade Scale-I at Basic Pay of Rs.
18, 240/- and further reduction of 8 (eight)*



increments in his salary in the time scale of pay of JMGS-I fixing his basic pay at Rs. 13, 820/- with immediate effect and further directing that the petitioner would not earn the increments of pay during the period of such reduction and on expiry of such period, the reduction would have the effect of postponing the future increment of his pay.

The present writ petition is further directed against the order dated 08.08.2008 passed by the General Manager (Personnel Service), the Appellate Authority of UCO Bank Respondent No.2 by which the Appeal preferred by the petitioner has been rejected in a most arbitrary manner.”

3. Deceased petitioner late Bipat Prasad Thakur while working as Senior Manager, UCO Bank, Sabour Branch, Bhagalpur he was subjected to disciplinary proceedings in framing of article of charges on 05.04.2006. Deceased petitioner had submitted his explanation on 24.04.2006 denying the alleged charges.

4. During the pendency of the inquiry he has submitted for change of Inquiring Officer on the score that Inquiring Officer is biased against the deceased petitioner. Such request was made to the disciplinary authority on 14.09.2006. No doubt, the disciplinary authority has not passed any order either in accepting or rejecting at the same time before conclusion of the departmental inquiry on 22.01.2007 Inquiring Officer has submitted his report. Deceased petitioner should have invoked remedy before this Court insofar as change of Inquiring Officer. Further, it is noticed that for changing of Inquiring Officer on 14.09.2006 is not substantiated by any event like oral altercation or any incident among the deceased-petitioner and the



Inquiring Officer. Merely, alleging bias in the absence of any event one cannot draw inference that Inquiring Officer was biased with the deceased-petitioner. Thereafter, the Inquiring Officer submitted his report dated 22.01.2007. In the result, second show cause notice was issued and disciplinary authority proceeded to impose the penalty of reduction in rank from the post of Senior Administrative Grade to that of Administrative Officer.

5. Feeling aggrieved and dissatisfied with the order of penalty, deceased-petitioner preferred Appeal on 23.07.2007 and it was rejected on 08.08.2008, hence, the present petition.

6. Mr. Gautam Bose, learned senior counsel restricted his argument only to the extent that deceased-petitioner has raised issue of bias against the Inquiring Officer. No other contention has been raised other than biased ground. It is necessary to reproduce Annexure-5 dated 14.09.2006 insofar as issue of bias against the Inquiring Officer:-

Date: 14.09.2006

*"The Asst. General Manager
(Disciplinary Authority)
UCO Bank*

*Regional Office
Bhagalpur*

Dear Sir,

*Sub: Departmental Enquiry in respect of
chargesheet dated 05.04.2006 issued to Shri
R.P. Thakur (PFM No. 13205)*

*Most humbly and respectfully I would like
to draw your kind attention towards the
appointment of Shri A.K. Mishra, Senior
Manager, Sabour Branch, as Enquiry
Officer in respect of the above chargesheet
issued to me.*



In this regard, I have objection based on the fact that at the material time Shri A.K. Mishra was posted at Regional Office, Bhagalpur, in the capacity of DCO (Credit) and he took active part in the investigation of the subject matter of the chargesheet issued to me. He analyzed/processed and prepared several documents which were presented to the Disciplinary Authority for action against him.

Shri A.K. Mishra has full knowledge of the facts of this case prior to his appointment as Enquiry Officer in this case, as such law debar such officer to be Enquiry Officer in the instant case. Moreover, the CSO is the member of UCBOA, Bihar and Jharkhand, and the Enquiry Officer is Principal Officer Bearer of BSUCBOA, a rival Union. Thus, the CSO has reasonable apprehension of bias of the Enquiry Officer, Shri A.K. Mishra, against me.

It is, therefore, humbly requested that your honour would graciously be pleased to change the Enquiry Officer, Shri A.K. Mishra, and in his place another officer be appointed as Enquiry Officer in the instant case, for which the CSO shall ever pray.

Yours Faithfully

*(R.P. Thakur)
PFM No. 13205
CSO”*

7. From perusal of the letter dated 14.09.2006 of the deceased-petitioner, it is evident that very vaguely contention has been taken that Inquiring Officer is biased. In other words, in the absence of any alleged incident among the deceased-petitioner and the Inquiring Officer one cannot draw inference that the Inquiring Officer is likely to be biased against the deceased-petitioner on the



sole ground that deceased-petitioner was working under the Inquiring Officer. Moreover deceased petitioner had surrendered his right before the Inquiry Officer & disciplinary Appellate Authority, instead of approaching this Court in the year 2006 in not considering his request for change of Inquiry Officer. During the pendency of the present petition, the petitioner has died and his legal heirs had been brought on record.

8. In the light of these facts and circumstances, question of inference or a judicial review in a disciplinary proceeding is not warranted in the light of Hon’ble Apex Court decision in the case of **State of Karnataka & Anr. vs. Umesh** reported in **(2022) 6 SCC 563**.

9. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

kamlesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.03.2023
Transmission Date	N/A

