

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18672 of 2010

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LAXMI NARAYAN GUPTA S/O Harihar Prasad, Ex. Senior Assistant, State Bank Of India Main Branch Chapra R/O Mohalla Gayani Sah Chowk, Chatradhari Bazar, P.S. Bhagwan Bazar, Distt. Chapra Saran

... .. Petitioner/s

Versus

1. THE GENERAL MANAGER S.B.I. and ORS R/O J.C. Road, Patna
2. The Deputy General Manager O B C State Bank Of India Administrative Office R/O J. C. Road, Patna
3. The Chief Manager, State Bank Of India R/O Chapra
4. Mr. Naveen Chandra Disciplinary Authority Cum Assistant General Manager Administrative , R/O Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Akashdeep, Advocate Mr.Shaymeshwar Kr. Singh, Advocate
For the Bank	:	Mr.Namrata Mishra, Advocate

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

Date : 26-06-2023

In the instant petition, petitioner has prayed for the following relief(s):-

“That the petitioner is invoking the writ jurisdiction of Hon’ble High Court of issuance of appropriate writ/writs, direction/directions, order/orders commanding the respondents:-

(a) For issuance of order/direction in the nature of certiorari setting aside the inquiry report dated 29.08.2009 contained in Annexure-5 and 5A.

(b) For setting aside the order dated 15.12.2009 (Annexure-9) passed by the conducting officer, where by where under the conducting officer without applying his mind has found the petitioner guilty of three charges, and the petitioner as Senior Assistant in the State Bank of India (herein



referred to as the “Bank”) Nagra Branch in the District of Chapra has been removed from the service.

(c) For setting aside the order dated 04.10.2010 (Annexure-12) passed by appellate authority cum Deputy General Manager (O & C. NW-1), State Bank of India, J.C. Road, Patna by which he has affirmed the order of removal and rejected the appeal.

(d) For issuance of order/direction in the nature of mandamus commanding the respondents to take back, the petitioner in service as senior assistant of the Bank with continuity in service and with all consequential benefits and promotions whatsoever as due to the petitioner.

(e) Issuance of any other relief or reliefs as which the petitioner may be deemed entitled on the facts and circumstances of the case.”

2. Petitioner while working as a Senior Assistant in the State Bank of India at Nagra Branch he was subjected to disciplinary proceedings on three allegations such action has been taken with reference to Sastry Award with reference to Desai Award and subsequent modification of memorandum of settlement dated 10.04.2002. The allegations No.(i), (ii) & (iii) reads as under:-

“i) You made inordinate delay in the arrear pension payment in respect of the Pensioner Sri Ram Paras Bhagat, SB a/c no. 11508631508 and kept pending the calculation of arrear payment from 20.10.2006 to 22.07.2007, thus, failed to discharge your duties within stipulated time causing great deal of damage to the Bank as well as the Customer.



ii) You demanded illegal gratification and accepted Rs. 700.00 from the complainant Sri Ram Paras Bhagat for the credit of arrear pension.

Iii) You had been involved in using your influences and managing your complainants, as also revealed from another complaint from the Pensioner Smt. Radhika Devi SB a/c no. 01170085474 and thus, interrupting the investigation process of the Bank.”

3. The petitioner was assigned the pension section in the month of June, 2007. The first allegation is relating to belated settlement of retiral dues/pension arrears of Late Ram Paras Bhagat. Perusal of the records, it is evident that concerned office was in receipt of pension papers of Late Ram Paras Bhagat in the month of October, 2006 and it was released on 22.07.2007 in the light of exhibit D4 of defense on behalf of the petitioner it is evident that he has been assigned pension section in the month of June, 2007. Therefore, delay cannot be attributed to the petitioner which has not been apprised by the Inquiring Authority with reference to dates and events read with exhibit D4 insofar as assigning pension section to the petitioner in the month of June 2007, and payment was released on 22.07.2007 in favour of Late Ram Paras Bhagat.

4. Allegation No. 2 is that the petitioner is alleged to have demanded and accepted sum of Rs.700/- (Rupees Seven



Hundred Only) Sri Ram Paras Bhagat. During the course of the inquiry Sri Ram Paras Bhagat did not adduce evidence insofar as alleged allegations that petitioner had demanded and accepted illegal gratification is as is evident from the finding of the inquiring authority in other words extraneous material has been decided by the inquiring authority instead of taking note of whether petitioner alleged to have demanded and accepted illegal gratification to favour Late Ram Paras Bhagat or not?

5. Allegation No. 3 is concerned the complaint is made by Smt.Radhika who is SBI account holder. She has adduced evidence, she has stated that she had never lodged the complaint against the petitioner and it was further supported by written statement. The same has been recorded by the inquiring authority however he has given his finding that it is partly proved. In this backdrop, the petitioner was punished while imposing penalty of removal from service on 15.12.2009 at Annexure-9.

6. Feeling aggrieved and dissatisfied with the order of the disciplinary authority he had preferred an appeal before the Appellate Authority and suffered an order on 04.10.2012 *vide* Annexure-12. Even the Appellate Authority has failed to apprise factual aspects of the matter. Further, there is a non-application of mind by the appellate authority to the extent that no reasons have



been assigned as to respective contentions stated in the memorandum of appeal. Learned counsel for the petitioner submitted that it is a case of no evidence. Therefore, the impugned orders are liable to be set aside.

7. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that there is no infirmity in the inquiry proceedings. However, she could not apprise this Court in respect of each of the three allegations as to how the alleged allegations is proved.

8. Heard the learned counsel for the respective parties.

9. Undisputed facts are that petitioner while working as a Senior Assistant in the State Bank of India at Nagra Branch was subjected to disciplinary proceedings on three allegations.

10. Perusal of the records, it is a case of no evidence in respect of all the three allegations. Ordinarily, Court will not interfere in respect of departmental inquiry on merits unless and until there is a perverse evidence. Perusal of each of the allegation it is evident that the allegation were not proved by manner known to the law. In fact, the inquiring authority has taken extraneous issue while dealing with the allegation no. 2. Apex Court in the case of ***Kuldeep Singh vs. Commissioner of Police*** reported in (1999) 2 SCC 10 it is held that inquiry proceedings could be



interfered by the Court if there are perverse evidence. Therefore, petitioner has made out a case so as to interfere with the impugned orders. Accordingly, orders dated 29.08.2009 (Annexure-5 and 5A), 15.12.2009 (Annexure-9) and 04.10.2020 (Annexure-12) are set aside.

11. Writ petition stands allowed. The concerned respondent is hereby directed to settle the petitioner’s service and monetary benefits from the date of removal till date of his retirement and calculate the same and disbursed within a reasonable period of time of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2023
Transmission Date	NA

