

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12544 of 2009

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Ram Bilas Ram, son of late Bengali Ram, resident of Bara Bariyarpur, P.S. Chhatauni, District East Champaran, presently residing Flat No.2, Harsh Prateek Qutir, Akashwani Road, P.S. Khajpura, District Patna.. Petitioner/s

Versus

1. The National Bank for Agricultural and Rural Development through its Chairman, Bandra Kurla Complex, Bandra (East), Mumbai
 2. The Chairman, National Bank for Agriculture and Rural Development, Bandra Kurla Complex, Bandra (East), District Mumbai
 3. The Chief General Manager, National Bank for Agricultural and Rural Development, Bihar Regional Officer, Patna
 4. The Deputy General Manager (Administration), National Bank for Agricultural and Rural Development, Bihar Regional Office, Patna.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr.Amish Kumar,Advocate
For the Respondent/s : Mr.Chittranjan Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 06-11-2023

Heard learned counsel for the petitioner and learned counsel for the NABARD.

2. This writ application has been filed for the following reliefs:

(I) For quashing the order dated 07.03.2007 (Annexure-1) passed by the respondent No.3 whereby the petitioner has been made to compulsory retire from National Bank's Service with effect from 07.03.2007 in terms of Rule 19 of NABARD (Staff) Rules, 1982.

(ii) For quashing the order dated 19.02.2008 (Annexure-3) passed by the respondent No.4 whereby the appeal preferred by the petitioner has been rejected.



(iii) For direction to the respondents concerned to reinstate the petitioner back in service with all consequential benefits.

(iv) For issuance of writ/writs, order/orders, direction/directions which he is entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner has been compulsorily retired from his service with effect from 07.03.2007 without following the procedure as required for the Compulsory Retirement and the Authority has followed the terms of Rule 19 of National Bank for Agriculture and Rural Development (Staff) Rules, 1982 and observed that *“We advise that you are not found suitable to be retained in Bank’s service in terms of Rule 19 of National Bank for Agriculture and Rural Development (Staff) Rules, 1982. You will therefore, retire from National Bank’s Service with effect from 07 march 2007. If you wish to avail yourself of the ordinary leave to our credit, if any, subject to maximum of ten months as on the above mentioned date of retirement, you will be allowed to do so on your making an application therefor and in that case you will be deemed to retire from service after the expiry of the leave. Alternatively, you will be, at your option, a lumpsum amount which would be equivalent*



to “pay” as defined in Rule 3(j) of National Bank for Agriculture and Rural Development (Staff) Rules, 1982 as on the above date, (i.e. 07 March 2007) for the unavailed ordinary leave earned, if any, subject to maximum of ten months plus eligible allowances in respect thereof”.

4. Pursuant to the aforesaid Rule 19 of National Bank for Agriculture and Rural Development (Staff) Rules, 1982, the petitioner has paid all the benefits from the Bank and petitioner has challenged the same before the appellate authority and the appeal of the petitioner has been rejected vide order dated 05.02.2008.

5. Learned counsel for the petitioner further submits that the impugned order passed by the respondent authority is a non-speaking order and it does not reflect of the reason as to why the petitioner is compulsorily retired from service and the same is neither in accordance with National Bank for Agriculture and Rural Development (Staff) Rules, 1982 (hereafter referred as Rules), nor does it qualify the minimum procedural requirement so as to stated the test of reasonability and rationality. Further submits that the 3rd proviso to Rule 19 of 1982 Rules as applicable in this case that the employee in Group B post who has attained the age of 55 years his continuance in service upto age of 60 years



shall be “subject to his being found suitable to be retained service” and the impugned order dated 07.03.2007 also does not specify as to how the petitioner has been found unsuitable to be retained in bank service.

6. Learned counsel for the Bank submits that the National Bank for Agriculture and Rural Development (hereinafter referred to as NABARD) is a body corporate established under the Act of Parliament i.e. NABARD Act, 1981. The General Superintendence Direction, Management, Affairs and the Business of the NABARD rests with the Board of Directors under Section 5(1) of the NABARD Act, 1981 and according to Section 5(1) read with Section 50 of the NABARD Act, the Board of Directors of NABARD has framed the NABARD (Staff) Rules, 1982. All the employees including the petitioner are governed by the aforesaid Rules, as per Rule 3(i)(2) of Staff Rules the competent authority for the Officers in Grade ‘A’, ‘B’ and ‘C’ working at the Regional Offices is CGM of the Regional Officers and as per Rule 49(b) of Staff Rules, the appellate authority for the Officers in Grade ‘A’, ‘B’ and ‘C’ is Managing Director of NABARD and the impugned order dated 07.03.2007 whereby the petitioner was retired compulsorily from the service of NABARD is concerned, the Chief General Manager of the Bihar Regional Office is competent



authority and is empowered to issue the said order and the same was based on the documentary evidence. The appeal filed by the petitioner before the Managing Director as Appellate Authority has also been dismissed by impugned order dated 19.02.2008 confirming the order of the competent authority. The orders of competent authority dated 07.03.2007 and the order of the appellate authority dated 19.02.2008 are legal and valid and have been passed as per the provisions of the Staff Rules of NABARD.

7. As per terms of Rule 19 of the NABARD (Staff) Rules, 1982, the Bank may, at its discretion, retire in the public interest any employee in Group 'A' at any time after completing 50 years of age. Further, his/her continuance in the service of the Bank after attaining the age of 55 years upto the age of 60 years shall be subject to his/her being found suitable to be retained in service. The power conferred under the provisions of Rule 19 of the NABARD (Staff) Rules 1982, shall be exercised by the competent authority with the prior approval of the Board. The petitioner was compulsorily retired on the following grounds:

(a) LEAVE RECORD: Unsatisfactory Leave Record during 4 years out of last 5 years, advised by Bihar RO vide letter dated 22.02.2006.



(b)PAR: Performance was unsatisfactory during all the preceding 5 years under scrutiny. Further petitioner's performance during the last 14 years (1990 to 2006) was unsatisfactory (65%). Petitioner was also advised on 9 occasions to improve his performance. For the year 2006 he was awarded integrity and loyalty of the petitioner was also judged as doubtful.

(c) SPECIAL REPORT: In the special report regarding continuance of the petitioner in the Bank CGM, Bihar RO recommended that "No use of his further continuance in the service of the Bank.

8. Further submits that the recommendation for compulsory retirement of the petitioner from Bank's service was made by the screening Committee comprising of Chief General Manager, D.G.M., Bihar Regional Office. The power conferred by the provisions to Sub-rule (1) of Rule this can be exercised by the competent authority with the prior approved the said proposal in its 154th meeting held on 22 January, 2007 and the competent authority for officers upto Grade 'C', has issued the aforementioned order dated 07 March, 2007 retiring the petitioner compulsorily from the Bank's Service and in terms of Rule No.48 of NABARD (Staff) Rules, 1982 the employees shall have a right to appeal against any order passed by the superior authority. The



petitioner has filed an appeal. The appeal of the petitioner dated nil though time barred and not putting forward any substantial arguments against the order, was placed before MD for consideration. The performance of the petitioner had deteriorated from 1993 onwards and accordingly, the petitioner was issued letters indication his shortcomings and the petitioner was advised to show improvement in his performance on 09 occasions and after the compulsory retirement from the Bank with effect from the 07.03.2007 payment of retiral benefits have been paid to the petitioner as per provisions of Rule 19(4) and 3(J) of NABARD Staff Rules, 1982.

9. In view of the aforesaid it appears that there is no infirmity in the impugned orders and the NABARD has rightly taken decision that the petitioner stands compulsorily retired from the Bank with effect from 07.03.2007 and petitioner has been paid all the compulsorily retirement benefits from the Bank and petitioner has accepted the same.

10. There is no merit in the writ petition. Accordingly, it is dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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