

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10416 of 2010

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Krishna Kumar Pd.Chaudhary, S/o Shri Sudhakar Prasad Chaudhary, R/o Mohalla- Rasalpur Zilani, P.S.- Kazi Mohammadpur, Town and Distt.- Muzaffarpur, State-Bihar

... .. Petitioner/s

Versus

1. Central Bank of India through its Chairman-Cum-Managing Director, Chandramukhi, Nariman Point, Mimbey.
2. The Appellate Authority-Cum-General Manager, RTL, BKG, Central Office, Chandramukhi, Nariman Point, Mumbey
3. The Zonal Manager-Cum-Disciplinary Authority Central Bank of India, Zonal Office, Bhagwanpur Chauk, Muzaffarpur
4. Inquiring Authority through Zonal Manager, Central Bank of India, Zonal Office, Bhagwanpur Chauk, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Pd.Singh Mr. Bikas Kumar Sharma, Advocate Mr. Ram Murti, Advocate
For the Respondent/s	:	Mr. Ajay Kumar Sinha, Senior Advocate Mr. Ajit Kumar Sinha, Advocate Miss. Dilkash Khan, Advocate Miss. Minu Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 22-03-2023

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

“(i) Quashing the Inquiry report dated 05.02.2008 contained in Annexure-8 to this writ petition.

(ii) quash the final order of the Disciplinary Authority in the matter of Departmental Inquiry held against the petitioner in pursuance of the Bank's Charge Sheet No. ZO/DA/2006-07/384 dated 07.02.2007 & subsequent corrigendum no. ZO/DAW/2007-08/237 dated 25.10.2007 &



Supplementary Charge Sheet No.- ZO/DA/2007-08/206 dated 14.09.2007 issued vide Order no. ZO/DAW/2008-09/397 dated 26.11.2008 contained in Annxure-9 to this writ petition.

(iii) to quash the appellate order confirming the final order of DA made vide Order No.- CO:GM:RTL:BKG:2009-10 dated 15.12.2009 contained in Annexure-11 to this writ petition.

(iv) declaring that in any view of the matter punishment on Charge Nos.-5, 6 & Supplementary Charge- "Dismissal which ordinarily be disqualification for future employment under Regulation-4 (j) of Central Bank of India Officers Employees (Discipline & Appeal) Regulations, 1976 amended up to date is excessive and arbitrary therefore, cannot sustain.

(v) treating the petitioner to be in service notwithstanding the order contained in Annexure-9 and continue to treat him as such and direct the respondents to pay him the full salary, all consequential benefits including increments & promotion.

(vi) And/Or any other order/s as this Hon'ble Court may deem fit and proper."

The petitioner while working as Branch Manager-Scale-II, Central Bank of India, Jasaulipati Branch, East Champaran at Motihari. He is alleged to have committed certain misdeeds while discharging the functions of the post for which he was subjected to disciplinary proceedings. Initially, overall seven charges were framed, thereafter, supplementary charge was also



issued. Charge nos. 1, 2, 3, 6 and 7 and supplementary charge were held to be proved and charge nos. 4 and 5 were proved in part. The disciplinary authority after due compliance of procedure laid down in the Central Bank of India Officer Employees' (Conduct) Regulations, 1976 read with Central Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as the "Regulations, 1976") proceeded to impose penalty of dismissal from service.

Feeling aggrieved and dissatisfied with the order of dismissal, petitioner submitted memorandum of appeal on 23.01.2009. The appellate authority confirmed the order of dismissal dated 26.11.2008 and 15.12.2009, hence, the present writ petition.

Learned counsel for the petitioner restricted his argument only to the extent that the appellate authority order is not in consonance with the principle laid down under Regulation 17 of the Regulations, 1976. Therefore, appellate authority order is liable to be set aside while remanding the matter to the appellate authority to consider petitioner's memorandum of appeal afresh.

Per contra, learned counsel for the respondents tried to defend the action of the appellate authority.



Heard learned counsel for the respective parties.

It is necessary to reproduce Regulation 17 -Appeals of Regulations, 1976 which reads as under:-

"17.APPEALS:

i. An officer employee may appeal against an order imposing upon him any of the penalties specified in Regulation 4 or against the order of suspension referred to in Regulation 12. The appeal shall lie to the Appellate Authority.

ii. An appeal shall be preferred within 45 days from the date of receipt of the order appealed against. The appeal shall be addressed to the appellate Authority and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the Appellate Authority. The Appellate Authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders. The Appellate Authority may pass an order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that -

i. If the enhanced penalty which the Appellate Authority proposed to impose a major penalty specified in Clauses (f), (g), (h),(i) and (j) of Regulation 4 and an enquiry as provided in Regulation 6 has not already been held in the case, the Appellate



Authority shall direct that such an enquiry be held in accordance with the provision of regulation 6 and thereafter consider the record of the enquiry and pass such orders as it may deem proper.

ii. If the Appellate Authority decides to enhance the punishment but an enquiry has already been held as provided in Regulation 6, the appellate Authority shall give a show cause notice to the officer employee as to why the enhanced penalty should not be imposed upon him and shall pass final order after taking into account the representation, if any, submitted by the officer employee."

The appellate authority was required to consider the memorandum of appeal and other issues as narrated in Regulation No. 17 of Regulations, 1976. Appellate Authority order is bereft of reasons. Appellate authority has only reiterated the facts of the case and extracted the contentions of the petitioner stated in the memorandum of appeal and, thereafter, proceeded to confirm the order of the disciplinary authority as is evident from page nos. 1 and 2 of the appellate authority order. Therefore, it is a case for remand.

Hon'ble Apex Court in the case of **the Secretary and Curator, Victoria Memorial Hall V. Hawrah Ganatantrik Nagrik Samity & Ors.** reported in **(2010)3 SCC 732** held that orders which are amenable to judicial review was required to be speaking order. In the present case, appellate authority order is



not a speaking order with reference to each of the contentions narrated by the petitioner in his memorandum of appeal and so also it has been extracted by the appellate authority.

Accordingly, order of the appellate authority dated 15.12.2009 (Annexure-11) is set aside and the matter is remanded to the appellate authority to pass a fresh order within a period of four months from the date of receipt of this order. Petitioner is permitted to file additional grounds in support of memorandum of appeal, if any, within a period of one month from the date of receipt of this order. The concerned appellate authority is hereby directed to consider in the event of filing additional grounds in support of memorandum of appeal, if any.

In the result, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

kamlesh/-

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

