IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.297 of 2019
In
Civil Writ Jurisdiction Case No.8618 of 2017

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Santosh Kumar Paswan, Son of Jitendra Kumar Paswan, Resident of Village- Daulatpur, South of Raja Bazar, District - Jehanabad, Bihar.

... ... Appellant/s

Versus

1. State Bank of India and ors Regional Business Office, Region-IV, Madhubani, 1st Floor, ADB Madhubani Branch Building, Madhubani through its Regional Manager.
2. Disciplinary Authority Cum Regional Manager (RBO) State Bank of India Regional Business Officer, Madhubani, 1st Floor of ADB Madhubani Branch, Madhubani.
3. State Bank of India, Secretariat of the Dy. General Manager (B and O), Zonal Office, Kale Bhawan Road, Purnea- 854301 through its Dy. General Manager (B and).
4. Dy. General Manager (B and O) and Appellate Authority, State Bank Of India, Administrative Officer, Purnea.
5. Chief Manager (Enquiry), Enquiry Dept. State Bank of India, Region-IV, Regional Business Office, Madhubani, 1st Floor of ABD, Madhubani Branch, Madhubani- 847211.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Bindhayanchal Singh, Sr. Advocate
For the Respondent/s	:	Mr.Chitrajan Sinha, Sr. Advocate
		Mr.Sanjiv Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-02-2024

In the present LPA, appellant – *Santosh Kumar Paswan* has assailed the order of the learned Single Judge dated 17.012.2018 passed in CWJC No. 8618 of 2017.

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2. He was Clerk in the respondent – State Bank of India, for alleged misappropriation of bank customers account. He was placed under suspension on 02.04.2016. Thereafter, he was subjected to parallel proceedings, namely, departmental inquiry was initiated in framing article of charge on 18.08.2016 and so also F.I.R. was registered. Insofar as criminal case, it is pending consideration before the jurisdictional Court. Disciplinary proceedings have attained finality in imposition of penalty of removal from service on 31.01.2017. Appellant has also exhausted the remedy of appeal in which also he had suffered an order. Thus, CWJC No. 8618 of 2017 was filed insofar as questioning the validity of punishment of removal from service and Appellate Authority order. Learned Single Judge on 17.12.2018 dismissed CWJC No. 8618 of 2017. Hence, the present LPA.

3. Learned counsel for the appellant submitted that no witnesses have been examined in support of the alleged charges. It is submitted that preliminary investigating officer has not been cited as witnesses and has not been examined. In support of such contention he relied on **Roop Singh Negi vs. Punjab National Bank** reported in **(2009) 2 SCC 570** decision before the learned Single. However, it has been brushed aside. It is also submitted that there is no fraudulent transactions alleged to have been

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committed by the appellant so as to warrant imposition of penalty of removal from service in the absence of evidence. Inquiry Officer has given finding to the extent that it is a case of no evidence.

4. *Per contra*, learned counsel for the respondents resisted the aforementioned contentions and supported the orders of the learned Single Judge. It is submitted that material evidence reveals that appellant had committed grave mis-conduct insofar as mis-utilisation of bank customers account and it is not an isolated case. On the other hand, he had mis-used more than one customer account on many occasions which is evident from the charge memo. Therefore, no interference is called for insofar as order of learned Single Judge dated 17.12.2018 passed in CWJC No. 8618 of 2017 and LPA is liable to be dismissed.

5. Heard learned counsels for the respective parties.

6. Appellant was a bank employee. Customers trusted the bank and its employees for the purpose of money transactions. To the effect various accounts have been opened for the purpose of money transactions. On the other hand, appellant being an employee of respondent – bank mis-used his power as a bank employee and mis-used the customers bank account in respect of withdrawal of money and when he came to know that there were

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complaints and higher officers had knowledge of the aforementioned illegal transaction of the appellant, he had proceeded to remit mis-utilised amount of the respective account as is evident from the record. For example in the case of *Shri Mukesh Singh* having A/c No. 30922399478 is alleged to have withdrawn a sum of Rs. 26000/- on 22.01.2016 in the absence of cheque or withdrawal form on behalf the *Shri Mukesh Singh*. Thereafter, he had remitted the aforementioned amount on 29.03.2016. On the speculation that disciplinary authority is likely to initiate proceedings against him. Similar action has been under taken by the petitioner in the case Bina Devi, Rajneesh Kumar, Pawan Kumar, etc,.

7. No doubt, it is a case of no evidence only with reference to adducing evidence on behalf of the customers or bank officials. On the other hand documentary evidence are crystal clear that it has been misappropriated temporarily by the appellant. It is a serious mis-conduct being an employee of the bank. Further, non-examination of preliminary investigating authority is concerned. Even on this issue when material information is available and it is not disputed by the appellant to the extent he is not at all involved in the alleged transaction, in such circumstances corroborate evidence is not required to be adduced on behalf of the

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respondent bank including customers evidence. On the other hand, appellant has admitted the aforementioned allegations. However, he is only contended that there is no fraudulent transactions since subject amount has been remitted to the respective account subsequently. Roop Singh Negi decision cited (supra) has been taken note of by the learned Single Judge. Allegations of misappropriation of money from the Bank customers and its remittance into their respective accounts are not disputed. In such circumstances cited decision would not assist the appellant's case. In other words no prejudice has caused to him.

8. Appellant being a Bank employee responsible for customer's trust. Customers repose faith in the Bank officials who enjoy a fiduciary relationship with them and even a suspicion of misconduct based on some evidence is sufficient to impose one of the major penalties. Hon'ble Supreme Court in the case of **United Bank of India vs. Bachan Prasad Lall** reported in **2022 LiveLaw (SC) 164** it is held that the bank employee always holds the position of trust where honesty and integrity are the *sine qua non* but it would never be advisable to deal with such matters leniently.

9. Taking note of these material information and the fact that learned Single Judge has elaborately considered and proceeded to dismiss CWJC No. 8618 of 2017. Hence, no

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interference is called for insofar as removal order, Appellate Authority order and order of the learned Single Judge dated 17.12.2018 passed in CWJC No. 8618 of 2017, accordingly, the present LPA No. 297 of 2019 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekkr/-

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