

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17217 of 2015

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Ram Nath Mandal son of Late Ambika Prasad Mandal R/o Pushpanjali Lok,
A- Flat No. 202, Ashiana Nagar, Phase- II, Patna- 800025

... .. Petitioner/s

Versus

1. The Madhya Bihar Gramin Bank Head Office, Meena Plaza, South of Museum, Patna- 1
2. The Chairman, Madhya Bihar Gramin Bank, Head Office, Meena Plaza, South of Museum, Patna- 1
3. The General Manager, Madhya Bihar Gramin Bank, Head Office, Meena Plaza, South of Museum, Patna- 1
4. The Chief Manager, Madhya Bihar Gramin Bank, Head Office, Meena Plaza, South of Museum, Patna- 1
5. The Senior Manager, Enquiry Officer in the present case, Regional Office, Kankarbagh, Patna- 20
6. The Senior Manager, Presenting Officer in the present case, Regional Office, Kankarbagh, Patna- 20

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Sinha, Advocate
		Mr. Arvind Pd. Singh, Advocate
For the Respondent/s	:	Mr. Praveen Prabhakar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 03-01-2024

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the Bank.

2. Learned counsel for the petitioner submits that the original order which was passed in the appeal (01.04.2015) has not been served upon the petitioner as yet and the petitioner has only received the communication of the Branch Manager which suggests that the appeal of the petitioner was disposed of on 28.07.2015 but the original order or the decision of the Board



has never been communicated to the petitioner. Even in the counter affidavit the respondent bank had not brought on the record the decision of the Board which inflicted the right of the petitioner.

3. Learned counsel for the petitioner has placed reliance upon the Constitutional Bench judgment of the Hon'ble Supreme Court reported in **AIR 1966 SC 1313** (State of Punjab Vs. Amar Singh Harika) and Division Bench judgment of this Court reported in **2001 4 PLJR 678** (Sushil Kumar Pandey Vs. Union of India and ors) in support of his plea.

4. Reliance has been placed upon the judgment of the Supreme Court in the case of State of Punjab Vs. Amar Singh Harika (supra) in support of the plea. Relevant portion which reads as thus;

“We are therefore, reluctant to hold that an order of dismissal passed by an appropriate authority and kept on its file without communicating it to the officer concerned or otherwise publishing it will take effect as from the date on which the order is actually written out by the said authority, such an order can only be effective after it is communicated to the officer concerned or is otherwise published. When a public officer is removed from service, his successor would have to take charge of the said office; and except in cases where the officer concerned has already been suspended, difficulties would arise if it is held that an officer who is actually working and holding charge of his office, can be said to be effectively removed from his office by the mere passing of an order by the appropriate authority. In our opinion, therefore, the High Court



was plainly right in holding that the order of dismissal passed against the respondent on the 3rd June 1949 could not be said to have taken effect until the respondent came to know about it on the 28th May 1951.”

5. Learned counsel for the petitioner has also placed reliance upon the paragraph no. 4 of Division Bench judgment of this Court in the case of Sushil Kumar Pandey Vs. Union of India and ors (supra) which reads as thus ;

“10. In the present case in paragraph 21 of the writ application, the appellant has stated that after the conclusion of the summary court martial proceeding at Battalik, he was orally informed on 26.7.1999 that he has been dismissed from service and he should proceed to his home, but no order of dismissal was served on him and all the articles as handed over to him by the Army were requested to be returned and it had been so returned. In paragraph 22 of the writ application, he has stated that thereafter he returned to his native village and thereafter letter dated 26.7.1999 was sent addressing to his mother; a copy of which has been annexed as Annexure-5 to the writ application and on that assertion, the writ application has been filed in this Court.”

6. In view of the aforesaid Annexure-6 dated 30.07.2015 is hereby quashed and there is no order in the eye of the law and it is admitted fact that the final order has not communicated to the petitioner as yet and the petitioner has deprived to challenge the same before the appropriate forum.

7. Learned counsel for the Bank on the other hand submits that the Branch Manager has communicated the



decision of the Board to the petitioner but fairly submits that the original order has not been served as yet to the petitioner. He further that the detailed order has been passed by the Board but fairly submits that the same has not been communicated to the petitioner.

8. In view of the aforesaid, let the matter be remanded back to the authority (Board) and the matter of the petitioner be heard afresh in accordance with law and pass the order within a period of three months from the date of production of this order and after giving proper opportunity to the petitioner to defend his case and follow the principle of natural justice and the final decision of the Board shall be communicated to the petitioner in accordance with law.

9. Accordingly, this writ petition stands allowed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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