

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9753 of 2011

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KAMLESHWAR PATHAK Late Janardan Pathak R/O, Shiv Shakti Nagar, P.O.
P.S. Bihta, Dist.-Patna

... .. Petitioner/s

Versus

1. MADHYA BIHAR GRAMIN BANK and ORS
2. The Board Of Directors -Cum-Appellate Authority, Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum
3. The Chairman -Cum-Disciplinary Authority, Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum, Patna
4. The General Manager, Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum, Patna
5. Senior Manager , Madhya Bihar Gramin Bank, Meena Plaza, South Of Museum, Patna
6. The Branch Manager, Madhya Bihar Gramin Bank, Bihta Branch, Dist.-Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dhruba Mukherjee, Advocate
For the Respondent/s	:	Mr.Mahesh Narayan Parbat, Advocate

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

Date : 29-11-2024

The petitioner while working as Manager he was asked to hold the Branch Manager as In-charge Officer, Bhojpur. When he was working as Bhojpur, Rohtas Gramin Bank he had disbursed number of loans under KCC & MSTP. The following charges were framed and charge-memo reads as under:-

“मध्य बिहार ग्रामीण बैंक
प्रधान कार्यालय, मीना प्लाजा, संग्रहालय के दक्षिण, पटना 800001

ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGES AGAINST SRI
KAMLESHWAR PATHAK, OFFICER U/S HQ AT BO JAGDISHPUR
PREVIOUSLY POSTED AS INCUMBENT AT BO BIHTA



Sri Kamleshwar Pathak is alleged to have committed the following lapses/irregularities while working as Incumbent at BO Bihta from 14.03.2002 to 14.07.2005.

Article-I

By abusing his official position he has sanctioned/disbursed loans recklessly under KCC & MSTP in contravention of banking system and procedures and misappropriated/embezzled loan amount in connivance with Sri Mahtab Khan, proprietor of S.M.Machinery store and a/c holder of CA 66.

Article-II

He has sanctioned/disbursed loans to impersonated/fake persons, many persons in one family, existing borrower outside the service area of the branch and beyond his vested power.

Article-III

He has not maintained proper house keeping and extended undue benefits to depositors by paying amount under remittance head for pending uncleared cheques.

Article-IV

He has created/allowed overdrafts in CA 66 of Sri Mahtab Khan Proprietor of S.M.Machinery Store and in many other SF a/cs of Branch.

Article-V

He has not followed the rules, regulations and instructions as laid down by the bank from time to time in performing the routine work of the branch.

Thus, he failed to discharge his duties honestly and faithfully, and did not use his utmost endeavour to promote the interest of the bank and has committed misconduct in terms of regulation 17 and 19 of Madhya Bihar Gramin Bank (Officer & Employees) Service Regulations.

*Chairman
Disciplinary Authority”*

2. Simultaneously, criminal proceedings were lodged against the petitioner. In the criminal proceedings he was convicted. Feeling aggrieved by the conviction, he has preferred Criminal Appeal No. 25 of 2014 in which he was acquitted. On the other hand, in a departmental inquiry, the alleged charges levelled



against the petitioner were stated to have been proved. Resultantly, he was punished with order of dismissal which is the subject matter of the present writ petition.

3. Learned counsel for the petitioner submitted that charges in departmental inquiry and criminal case are one and the same and so also witnesses are one and the same. It is not disputed by the respondents. Further, in a departmental inquiry all along the petitioner had disputed the charges and there is no admission that he had committed irregularity so as to take a different view on par with the criminal proceedings.

4. Having regard to these facts and circumstances, the petitioner has made out a case only on the score that charges and witnesses in both criminal and departmental inquiry are one and the same. On this score the impugned order of dismissal dated 15.10.2009 stands set aside.

5. Learned counsel for the petitioner relied on Hon'ble Supreme Court in the case of Ram Lal vs. State of Rajasthan in Civil Appeal No. 7935 of 2023 (arising out of SLP (C) No. 33423 of 2018) decided on 04.12.2023 to the extent that both criminal and departmental inquiry, charges and witnesses are common. On this point, Hon'ble Supreme Court has decided to set aside the penalty order. Having regard to the passage of time question of



reinstatement would not arise. Be that as it may, petitioner is entitled to 50% of the backwages from the date of dismissal till his date of retirement. Rest of the service benefits shall be extended.

6. The concerned Respondent/s is/are hereby directed to settle the petitioner due within a period of six months from the date of receipt of this order. The above exercise shall be completed within a period of six months from the date of receipt of this order.

(P. B. Bajanthri, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2024
Transmission Date	NA

