

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12660 of 2010

1. Smt. Rita Jaiswal, W/o Late Suman Kumar Jaiswal.
 2. Swati Rani, D/o Late Suman Kumar Jaiswal.
 3. Anandita Kiran, D/o Late Suman Kumar Jaiswal.
- Resident of Lohia Nagar, P.O.- Katihar, P.S.- Katihar, District- Katihar.

... .. Petitioners.

Versus

1. The State Bank of India through its Chairman, State Bank of India, Corporate Centre, State Bank Bhavan, Madame Cama Road, Mumbai.
2. The Deputy General Manager, O & C (NW-I), Disciplinary Proceeding Cell, State Bank of India, Administrative Building, J.C. Road, Patna.
3. The Assistant General Manager (Admin), Disciplinary Proceeding Cell, State Bank of India, Administrative Office, Purnea.
4. The Branch Manager, State Bank of India, AMY Forbesganj Branch, Forbesganj, Araria.

... .. Respondents.

Appearance :

For the Petitioner	:	Mr. Rupak Kumar, Advocate.
For the Respondent-SBI	:	Mr. Amish Kumar, Advocate.
		Mr. Aamir Hayat, Advocate.

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

Date : 13-09-2024

In the instant writ petition, the original petitioner-deceased Suman Kumar Jaiswal, who was working as a Clerk, had assailed the impugned order of penalty and appellate authority's order. During the pendency of the present writ petition, he has died on 25.04.2012, resultantly, substitution petition has been filed while replacing the deceased-original petitioner to that of his legal heirs.

2. Deceased-original petitioner was placed under suspension on 10.08.2007 on certain allegations which are part



of charge-memo. Charge-memo was issued on 08.03.2008. He had submitted his reply on 20.03.2008. It was not satisfied by the disciplinary authority which resulted in appointment of inquiring officer and presenting officer. The inquiring officer has exonerated the deceased-original petitioner from the two charges. On receipt of inquiring officer's report, disciplinary authority disagreeing with the inquiring officer's report proceeded to pass the communication to the petitioner on 03.07.2009, it reads as under:

“With reference to the Charge Sheet served on you vide our letter no DPS/PU/Z0/42 dated 08.03.2008 and the Departmental enquiry concluded in this regard, we forward herewith a copy of enquiry report dated 04.03.2009 submitted by the Enquiry officer.

2. In this connection, we do not agree with the view of Enquiry officer in respect of the allegations for the reasons mentioned against.

ALLEGATION NO.2 (A)

The Charge Sheeted employee despite office order dated 07.08.2007 (PEX) 8 did not comply with the instructions of the Bank is evidenced. This act of Shri Jaiswal resulted in altercations taking place between Shri Das and Shri jaiswal. In case the terminal provided to Shri jaiswal was not in order the



employee should have reported to the Branch Manager to find a solution instead of entering in to heated exchange with the accountant which has been confessed by him in his reply to the explanation. He has termed the Office Order as impractical where as, the motive behind Office Order was to ensure smooth functioning of the Branch despite a node being out of order. DLX-12 is very clear to justify that Shri jaiswal being working on single window counter instead of accepting deposit of the customer for opening the Fixed Deposit, created nuisance in the Banking hall without taking into consideration that his act will badly affect the customer service of the Bank. By this way the act of Shri Jaiswal was not only unbecoming of an employee rather creative of indiscipline in the Bank in contravention of his service condition which is highly prejudicial to the interest of the Bank is apparent. The restrictive practice as quoted by the Enquiring Officer is also defined as "that employee with double designation such as Clerk-Typist. clerk cum cashier, etc. may be asked to perform both the duties on the same day. Shri Jaiswal was working on single window counter therefore, frequent change of duty doesn't arise.. Hence the allegation is held as fully proved.



ALLEGATION NO 2(B)

I do not agree with the findings of Enquiring Officer as the PEX-1 in prosecution as mentioned in EPR page no 20 has clearly witnessed about the incidence occurred in at the Branch. It has also been mentioned that some customers also reported to him the untoward assault of Shri Ratan Kumar Das by Shri Jaiswal. The incidence of assault has also been evidenced PEX-4 being it the written statement given by Shri Chandra Shekhar Deo reported to deal with the courier services present in the Branch for courier works. Hence in the entire episode willful in subordination, disobedience of lawful and reasonable orders of superiors as well as assault of the Branch accountant by the Charge Sheeted employee is evidenced. Hence the allegation is held as proved.

The Disciplinary Authority/Appointing Authority will take a final decision in this regard after examining the report. In the mean time if you desire to make any submission/representation you may do so within 10 (ten) days on receipt of this letter. Please acknowledge receipt on duplicate copy of this Memorandum.”

3. Allegation No.2(A): it is stated that as if the



deceased had confessed the alleged allegation in his reply to the explanation, the same is contrary to the explanation furnished by the deceased-original petitioner. Further insofar as Allegation No.2(B), in the last paragraph, it is stated that the disciplinary authority/appointing authority will take final decision in this regard after examining the report. Assistant General Manager (Administration) (Disciplinary Authority), who has passed the aforementioned order/communication, when he himself is the disciplinary authority, there is a total non-application of mind insofar as communication dated 03.07.2009 insofar as both the Allegation No.2(A) and Allegation No.2(B). On this count itself, all further proceedings are liable to be set aside.

4. Accordingly, the petitioners have made out a case so as to interfere with the impugned orders dated 8/11.3.2010 and 15.10.2009 (Annexures-1 and 2) for the reasons that respondents are not disputing the aforementioned infirmities committed by the disciplinary authority in its communication dated 03.07.2009. The impugned orders dated 8/11.3.2010 and 15.10.2009 (Annexures-1 and 2) are set aside.

5. The writ petition is allowed.

6. The concerned respondents are hereby directed to



restore the time scale of pay which was withheld for a period of two years on 15.10.2009 and calculate difference of amount. Further, suspension period shall be treated as on duty. Even on this issue, the concerned authority is hereby directed to calculate difference of pay and disburse the same within a period of three months from the date of receipt of this order, failing which petitioners are entitled to interest on belated settlement of monetary benefits. The concerned respondents are hereby directed to examine re-fixation of pay and also retiral benefits in view of restoration of time scale of pay which was withheld for two stages for two years. In this regard also, necessary calculation shall be made and disburse the same.

(P. B. Bajanthri, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2024.
Transmission Date	NA

