

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.921 of 2019
In
Civil Writ Jurisdiction Case No.13318 of 2004

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1. Punjab National Bank, through its Chairman, 7 Bhikajikama Place, Africa Avenue, New Delhi.
 2. The General Manager, 7 Bhikajikama Place, Africa Avenue, New Delhi.
 3. The Deputy General Manager Cum Disciplinary Authority, Punjab National Bank, Zonal Office, Third Floor, Chanakya Complex, R.Block, Patna.
 4. The Sr./Regional Manager, Punjab National Bank, R.Block, Patna.

... .. Appellants.

Versus

Lalit Kumar Son of Sri Mushar Yadav, Resident of 158-C.D.A. Colony, Shastri Nagar, P.S.- Shastri Nagar, Town and District- Patna.

... .. Respondent.

Appearance :

For the Appellants	:	Mr. P.K. Shahi, Senior Advocate. Dr. Pankaj, Advocate.
For the Respondent	:	Mr. Rajendra Narain, Senior Advocate. Mr. Satyendra Narain, Advocate.

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

Date : 06-03-2024

The appellants have assailed the order of the learned Single Judge dated 27.08.2018 passed in C.W.J.C. No.13318 of 2004.

2. Respondent-Lalit Kumar was subjected to disciplinary proceedings under Regulation No.6 of Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977 (hereinafter referred to as "Regulation, 1977"). Charge memo was issued on 04.02.2002. Respondent



denied the alleged charges on 02.03.2002. It was not satisfied with the disciplinary authority. Therefore, the disciplinary authority proceeded to appoint inquiring officer and proceeded to complete other formalities. The inquiring officer submitted report on 13.05.2003, such a report was made available to the respondent seeking his explanation/reply. On 08.07.2003, he had submitted his reply. Thereafter, the disciplinary authority proceeded to impose penalty of compulsory retirement on 30.09.2003. Feeling aggrieved by the order of penalty, the respondent preferred appeal before the appellate authority and the appellate authority affirmed the penalty of compulsory retirement on 27.02.2004. Respondent filed C.W.J.C. No.13318 of 2004 and it was allowed/disposed on 27.08.2018. Hence, the present L.P.A.

3. Mr. P.K. Shahi, learned Senior counsel for the appellants submitted that the learned Single Judge has proceeded to allow the writ petition on two counts, namely, the alleged allegation relates back to of the year 1995 and charge memo was issued in the year 2002, it was further taken note of that during the intervening period from the date of the alleged charges and alleged allegation in the year 1995 and framing of article of charges on 04.02.2002, respondent has earned



promotion. It was further taken note of that none of the witnesses were examined in support of the alleged charges. These reasons assigned by the learned Single Judge are not assisting Respondent's case. It is submitted that initiation of belated disciplinary proceedings with reference to the alleged charges relating to 1995 read with charge memo dated 04.02.2002, there is delay of about 7 years. In respect of delay in initiation of inquiry with reference to misappropriation of any financial irregularities in such circumstances, delay would not be a hurdle. Even grant of promotion does not wipe out the alleged allegation/charges and that too when there are serious charges in respect of loan disbursement and some portion of the money has been deposited in the respondent's account (subsidy amount). Incumbent Branch Manager is stated to have been examined and same was not appreciated before the learned Single Judge. To that extent, there is error. Hence, the order of the learned Single Judge dated 27.08.2018 passed in C.W.J.C. No.13318 of 2004 is liable to be set aside and L.P.A. be allowed while affirming the order of penalty of compulsory retirement and its affirmation by the appellate authority. Further, it is submitted that during the pendency of the L.P.A., respondent was reinstated and he has been paid 25% of the back wages



pursuant to the contempt of court petition read with the pendency of the present L.P.A.

4. Per contra, learned counsel for the respondent resisted the aforementioned contention and submitted that there is no error committed by the learned Single Judge. The one and only error is examination of witness. It is submitted that even examination of the incumbent Branch Manager is concerned, it was pointed out that under Regulation No.6 along with the article of charges, disciplinary authority was required to provide article of charges, statement of imputation, list of documents and list of witnesses. Along with the charge memo dated 04.02.2002, disciplinary authority has failed to provide list of witnesses. Even during the course of the departmental inquiry, the disciplinary authority has failed to provide list of witnesses. In other words, extraneous statement has been taken into consideration and there is violation of Regulation No.6 of Regulation, 1977 also. Therefore, even if the learned Single Judge has committed error insofar as not taken note examination of incumbent Branch Manager that does not cure the defect in the disciplinary proceedings when there is a violation of statutory Regulation like Regulation No.6 in the present case.

5. Heard the learned counsel for the respective



parties.

6. Undisputed facts are that respondent was subjected to disciplinary proceedings in respect of the alleged allegations of the year 1995 and issuance of charge memo on 04.02.2002 and its conclusion insofar as imposition of penalty of compulsory retirement on 30.09.2003 and its affirmation by the appellate authority on 27.02.2004.

7. The appellants contended that the learned Single Judge has committed error while holding that initiation of inquiry is stale. It is to be noted that there is no challenge to the charge memo dated 04.02.2002 by the respondent so as to contend that it is stale charge or initiation of inquiry is highly belated. Promotion earned by the respondent during the intervening period from the year 1995 to 04.02.2002 would not prohibit the disciplinary authority to initiate inquiry or merely respondent was promoted whatever alleged allegation existing as on the date of promotion would not wipe out. However, there is a violation of Regulation No.6 in not providing list of the witnesses to the respondent before departmental inquiry was commenced insofar as appointment of inquiring officer and subsequently concluding the disciplinary proceedings and it would go to the root of the matter. It was a case for remand to



the disciplinary authority to continue disciplinary proceedings from the defective stage, namely, on 04.02.2002 disciplinary authority while framing charges, failed to comply Regulation No.6 in full. However, the appellants have already implemented the orders of the learned Single Judge dated 27.08.2018 passed in C.W.J.C. No.13318 of 2004 and due to the pendency of the present L.P.A., they have withheld certain monetary benefits. That apart, the respondent has already attained the age of superannuation and retired from service. Taking note of these developments, we propose not to interfere with the order of the learned Single Judge dated 27.08.2018 passed in C.W.J.C. No.13318 of 2004.

8. Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

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