IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22152 of 2012

Siyaram Sinha, S/O Shri Yogendra Sinha, R/O West Boring Canal Road, Alka Niwas, Behind Laxmi Nursing Home, Anandpuri Marg, Patna, At Present Posting At Central Bank Of India, At Non-Business Branch, Fraser Road, Patna

... ... Petitioner/s

Versus

1. The Central Bank Of India through its Chairman-cum-Managing Director, Chandramukhi Nariman Point, Mumbai
2. Zonal Manager Central Bank Of India, Maurya Lok Complex, Second Floor, Patna
3. Regional Manager Central Bank Of India, Maurya Lok Complex, Patna
4. Co-Operative Credit Society Ltd., Patna, Through It'S Secretary Boring Road, Patna

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Narendra Kumar Sharma, Advocate
For the Respondent/s	:	Mr. Ajay Kumar Sinha, Sr. Advocate
		Mr. Ajit Kumar, Advocate
		Ms. Dilkash Khan, Advocate
		Mr. Pravin Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
Date : 12-09-2024

Heard Mr. Narendra Kumar Sharma, learned counsel appearing on behalf of the petitioner and Mr. Ajay Kumar Sinha, learned Senior Advocate along with Mr. Ajit Kumar, Ms. Dilkash Khan and Mr. Pravin Kumar, learned counsels for the respondents.

2. Petitioner has *inter alia* prayed for following reliefs in the paragraph No.1 of the writ petition:-

> *(I) For issuance of an appropriate writ, order or direction including a writ in the nature of Mandamus for making declaration of the Inquiry Report as perverse and also*

for quashing the aforesaid Inquiry Report.

(ii) For issuance of an appropriate writ, order or direction in the nature of Certiorari for quashing the findings and final order of the Disciplinary Authority, P.C. Sinha, Regional Manager, Patna in the matter of Departmental Proceeding against the petitioner, Assistant Manager, Branch Office, Boring Road, Patna previously posted at Patliputra Colony Branch, pursuant to Charge Sheet No.PRO/DAW/05-06/69 dated 24.3.06. whereby and whereunder the petitioner has been given the following punishment:-

"Reduction of two stages in time scale of pay for a period of two years, with further direction that the C.S.O. will not earn increment of pay during the period of such reduction and the expiry of such period the reduction will have the effect of postponing future increment of his pay."

(iii) For issuance of a writ, order or direction in the nature of Certiorari for quashing the finding and final order of the Appellate Authority vide Letter No.20-DAW-2007-08-552 dated 11.02.2008 whereby and whereunder the findings and final order of the Disciplinary Authority dated 6.10.2007 has been confirmed by the Appellate Authority.

(iv) For issuance of a writ, order or Direction in the nature of Mandamus for commanding the concerning authority to issue direction to the Regional Manager (Respondent No.3) for retrieval of all consequential benefits to the petitioner.

(v) For any other relief/reliefs to which the petitioner is found entitled to."

3. Learned counsel appearing on behalf of the petitioner submitted that the penalty order dated 06.10.2007 (Annexure 2) needs to be interfered with in so far as reduction of two stages in time scale of pay for a period of three years with further direction that CSO (petitioner) will not earn

increment of pay during the period of such reduction and expiry of such period, the reduction would have the effect of postponing future increment of his pay in terms of Regulation 4(f) of Central Bank of India Officers Employees' (Discipline and Appeal) Regulation, 1976. Learned counsel submitted that petitioner was served with the charge memo dated 24.03.2006, contained in Annexure 4 along with Annexure I, containing the article of charge, Annexure II, containing statement of imputations of misconduct in support of articles of charge (Annexure I) against the petitioner, while he was posted at Boring Road, Branch, Patna and Annexure III, the list of document/witness in order to substantiate the charges levelled against the petitioner.

4. Learned counsel submitted that charge memo refers the commission of alleged misconduct, while the petitioner was one of the members of the Managing Committee of Central Bank of India Employees Co-operative Credit Society Limited, Patna and out of the public deposit mobilized by him in the said Cooperative Society, he diverted the bank deposit to the said Cooperative Society, while he was working in time deposit department at Bank Boring Road Branch, Patna and earned commission from the said Cooperative Society and by way of

certain illustration (Annexure II to the charge memo), 7 cheques of different dates and different years are said to be issued but the same do not concern with the posting of the petitioner while he worked as in-charge of time deposit.

5. Learned counsel further submitted that soon after the charge memo was served to the petitioner in respect of Annexure 3, 7 cheques of different dates of different amount have been alleged to have been deposited in the account No.5836 (M) (statement of account of the petitioner along with one Sarika Sinha), which has been brought on record by way of Annexure 1 to the writ petition. Learned counsel further submitted that on 29.03.2006, the petitioner had requested the disciplinary authority, the Regional Manager to provide inspection in regard to bank charge-sheet dated 24.03.2006, served to him on 27.03.2006 in order to submit point-wise statement of his defence in connection with the documents, being the same seven cheques which have been referred in Annexure II to the charge memo. Learned counsel submitted that the petitioner was denied the original document and, therefore, he could not inspect in respect of the bank charge-sheet to submit his point wise defence. However, the petitioner had participated in the inquiry. He further submitted that from

very perusal of the charge memo, it would reflect that the petitioner was served charge-sheet, while he was posted at Boring Road Branch and in Annexure II to the charge memo, 7 cheques have been illustrated therein in support of the charges alleged against the petitioner, which relates to have been issued in the year 2003, 2004 and 2005. During the said period, the petitioner was not working at the Boring Road Branch. Learned counsel in support of his information has made specific statement in paragraph no.4 of the writ petition to the extent that the petitioner was appointed and posted at Hajipur, Central Bank of India on the post of Agriculture Assistant on 30.12.1978 and promoted to the post of Agriculture Finance Officer and posted at Sahebganj, Muzaffarpur. Petitioner joined P.P. colony Branch on 17.11.2001 and remained till 29.12.2004. He was posted as Assistant Branch Manager in the concerning Bank, Boring Road Branch on 30.12.2004 and, in the meantime, he worked as In-charge of time deposit from 07.02.2005 to 21.05.2006 at Boring Road Branch and, thereafter, he was transferred to Ranchi.

6. The petitioner reiterated that he was in-charge of time deposit from 07.02.2005 to 21.05.2006 and all the cheques referred relate to period beyond 07.02.2005. On these grounds,

learned counsel submitted that having not provided with the evidence in support of the charge, the entire departmental inquiry initiated against the petitioner is bad in law. Learned counsel in support of his contention that non-supply of list of documents will vitiate the entire departmental inquiry has relied upon the judgment of the Apex Court in the case of **Roop Singh Negi vs Punjab National Bank & Ors,** reported in **2009(2) SCC 570,** particularly paragraph no.7 thereof, and the judgment of this Court in the case of **Rajendra Prasad Sah and Anr. vs State of Bihar and Ors.**, reported in **2018 (3) PLJR 939,** particularly paragraphs no.5 and 7 thereof**.**

7. *Per contra*, Mr. Ajay Kumar Sinha, learned Senior counsel along with Mr. Ajit Kumar Sinha, learned counsel appearing on behalf of the respondents, referring to provision of Regulation 3(1) and 6(5) of the Central Bank of India Officer Employees' (Conduct) Regulations, 1976, read with Regulation 24, which attracts penalty under Regulation 4 of Central Bank of India Officers Employees (D & A) Regulation, 1976, submitted that the charge as alleged in the charge memo, as exemplified in Annexure II to the charge memo forms part of the charge-sheet, i.e., statement of imputations of misconduct and the petitioner having found to have earned commission from the Central Bank

of India Employees Co-operative Credit Society Limited out of the public deposit mobilized by him in the said cooperative society, he had diverted the bank deposits to the said cooperative society, while working in the time deposit department at Bank Boring Road Branch, Patna and by way of illustration as Annexure II, certain cheques have been brought on record. The petitioner was given much opportunity to inspect and cross-examine the witnesses and the petitioner has not denied in the writ petition or before the inquiry officer that the cheques which were earlier deposited into the account as mentioned in Annexure II were not deposited in his private bank account No.5836, maintained at Boring Road Branch. He further submitted that no denial in this respect will only amount that while he was member of Managing Committee of the Cooperative Society Limited, he had got profit and in course of inquiry, he has not been able to deny the said fact. Learned counsel has further submitted that petitioner was given proper opportunity to inspect the documents, as desired by him and the petitioner had never objected that he was not supplied any document, as required by him to give point-wise statement. Referring to inquiry report, learned senior counsel submitted that the petitioner had replied to the questionnaire and the same is reproduced hereinafter:-

> "I.A. to DR- Have you inspected the said cheque also?
> DR to IA- yes, I have and received its photo copies of the same."

8. Learned senior counsel submitted that the law relied by the petitioner in the cases of **Roop Singh Negi (Supra)** and **Rajendra Prasad Sah (Supra)** will not help the petitioner in any manner, considering the fact that proper opportunity was provided to the petitioner and there has been no violation of principle of natural justice in conduct of inquiry and, as such, the penalty order as contained in Annexure 2 to the writ petition cannot be vitiated and the appellate authority has also upheld the penalty order passed by the disciplinary authority.

9. Having heard the rival submissions made on behalf of the parties, as well as, having perused the documents relied by both the parties and the inquiry report, the penalty orders are required to be interfered by this Court on the ground that the petitioner was not provided with the documents and evidence which were mentioned in the list of documents along with the charge memo and in absence of the supporting documents in respect of the imputation of charge, whether the same will vitiate the entire disciplinary action taken against the petitioner.

10. Upon analysis of the record, I find that the

petitioner was holding a joint account No.5836 standing in the name of the petitioner / Siya Ram Sinha and Sarika Sinha, maintained with Central Bank of India, Boring Road Branch, Patna. I have perused the finding of the departmental inquiry proceeding dated 24.03.2006 in respect of the petitioner, which has been brought on behalf of the petitioner by way of Annexure 1 to the writ petition. From the said finding, I find that the petitioner had taken a stand before the inquiry officer in his defence that merely looking the face of a cheque, one cannot say the purpose of which it is drawn by the drawer. In relation to the vital documents, which were required to prove the payment on account of some other purpose when to disapprove the charge levelled against the petitioner could not be brought by the petitioner, who was also the Director of the Cooperative Society during the period, from 07.02.2005 to 21.05.2006. The conclusion of the inquiry officer reveals that "mere contention of the petitioner (CSO) that he had not worked in the time deposit department in the branch during the alleged period is not tenable". I find in this connection the defence of the petitioner which has been recorded by the inquiry officer from the exhibits MU1 to ME11 and DE 1 to DE 2 respectively, only witness was examined and no opportunity was given to the petitioner cannot call for any interference by this Court, considering the conclusion derived by the inquiry officer in view of the clear cut finding. To satisfy this Court, the petitioner had sought time for filing supplementary affidavit. The matter was adjourned on the request of the petitioner *vide* order dated 06.08.2004 and petitioner after seeking several adjournments could file the supplementary affidavit on 10.09.2024. From perusal of the statement made in the affidavit, I find that no satisfactory information has been given to deny that amounts were not transferred in his joint account. The petitioner has reiterated certain information as stated in paragraph no.2, which I find proper to reproduce the same:

> *"That the averments made in Paragraph No.4 to the supplementary Counter Affidavit are false and based on no evidence hence hereby denied by the petitioner as petitioner was elected as member of Managing Committee vide Memo No.10 (Nirva)/2004 dated 17.10.2004. Name of the petitioner is appearing at Serial No.09 to the report of Secretary, Central Bank of India Employees Co-operative Credit Society Limited, Laxmi Complex, Boring Road, Patna, published on occasion o General Meeting held on 02.10.2007. It is also mentioned in the said report that duration of said elected managing committee shall be 17.10.2004 to 16.10.2009."*

11. The petitioner has relied in paragraph no.3 of the supplementary affidavit giving reference of the law laid down by the Apex Court in the case of **State of Uttar Pradesh Versus**

Saroj Kr. Sinha reported in **2010(2) SCC 772** particularly, paragraph no.21 and 24 thereof.

12. The petitioner has not pleaded anywhere either in the writ petition, as well as, in the supplementary affidavit or has been able to give information before the Disciplinary Authority, at any stage in Departmental Enquiry in respect of date, on which, he was elected as one of the Directors of the concerned Co-operative Society. The concerned Co-operative Society is a limited Co-operative Society and is assessed under the Income Tax, as well as, is registered under the Companies Act. The petitioner has admitted in paragraph no. 16 of the writ petition that he was one of the Directors of the concerned Co-operative Society and the allegation levelled against the petitioner is that he had earned commission while he was the one of the Directors of the said Co-operative Society. Taking into consideration that the petitioner, as on date, has already been superannuated and his pension and other terminal benefits will be affected if the penalty order is interfered by this Court and, as such, I find it proper that the whole allegation against the petitioner hinges on the very fact that the petitioner has admitted that he was one of the Directors of the concerned Limited Co-operative Society and, as such, he is required to give the specific date, on which,

he was elected or nominated as the one of the Directors of the concerned Cooperative Society.

13. In continuation of my order dated 06.08.2024, I hold that the petitioner has not been denied any opportunity in course of inquiry. The documents were provided as desired by him to be inspected and there has been no denial that at any stage the petitioner was not given any due opportunity of hearing as desired by him. I do not find any infirmity in the penalty order in any manner and calls for any interference by this Court.

14. The writ petition is accordingly dismissed.

15. There shall be no order as to cost.

16. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Sanjay/-

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