

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1146 of 2019

In
Civil Writ Jurisdiction Case No.17495 of 2011

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Raj Kishore Prasad Son of Late Mahadeo Sah, resident of R.M.S Colony,
Urdu Bazar, Jagdishpur, Bhagalpur, P.S. and Distt.- Bhagalpur.

... .. Appellant/s

Versus

1. The General Manager, Central Bank of India Patna Zone, Zonal Office, 2nd Floor, Mauraya Lok, Patna- 1.
2. The Assistant General Manager-cum-the Appellate Authority, Central Bank of India, Patna Zone, Zonal Office, 2nd Floor, Mauraya Lok, Patna- 1.
3. The Regional Manager-cum-Disciplinary Authority, Central Bank of India, Regional Office, Gaya.
4. The Branch Manager, Central Bank of India, Khagaul Branch, Distt.- Lakhisarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr. Ajay Kumar Sinha, Sr. Advocate
		Mr. Ajit Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-12-2024

In the instant appeal, appellant has assailed the order of the learned Single Judge dated 15.04.2019 passed in CWJC No. 17495 of 2011. The appellant was subjected to disciplinary proceedings in a set of disciplinary regulation. Similarly one *Devendra Singh*, Deputy Manager, who was an officer, he is governed by different set of rules, resultantly, both of them have



been subjected to disciplinary proceedings in respect to alleged same charges. *Devendra Singh* was punished while imposing the penalty of reduction of four stages in the time scale of pay for four years with cumulative effect. On this point appellant has specifically taken contention in CWJC No. 17495 of 2011, in Paragraph No. 22 which reads as under:

“That it is submitted that another bank employee, the then Deputy Manager Devendra Singh held guilty in the departmental proceeding for gross negligence in handling the cash which amounts to a gross misconduct on his part in respect of the theft of Rs. 5,10,000/- committed in the branch on 22.6.2006, but he has been awarded a lesser punishment-reduction of 4 stages in the time scale of pay for 4 years with cumulative effect with further direction. The said order of the Disciplinary Authority is discriminatory in nature.”

2. Taking note of this issue, on 18.11.2024, we have passed the following order:

In the present appeal, the appellant has assailed the order of the learned Single Judge dated 15.04.2019 passed in CWJC No. 17495 of 2011. The appellant while working as a Head Cashier/Clerk in Central Bank of India, Khagaur Branch, District – Lakhisarai, found that certain amount of Rs. 10,000/- was paid to customer in excess. In this regard, the appellant has handed over the keys of the cash cabin as well as one of the key of the strong room to the Deputy Manager, Devendra Singh. Before he was returning to



the cash cabin, he noticed that Devendra Singh and three others were found in the strong room, thereafter, a sum of Rs. 5 lakhs was missing from the strong room. Resultantly, there was shortage of Rs. 5,10,000/-.

2. Arising out of the aforementioned alleged negligence on behalf of the officials, appellant was placed under suspension on 24.06.2006. Show cause notice was issued to the appellant seeking his explanation on 17.08.2006, he had submitted his explanation on 25.01.2007 and it was not satisfied by the disciplinary authority. Resultantly, disciplinary authority proceeded to issue charge memo on 10.02.2007. The appellant had denied the charge memo. The inquiring officer was appointed and in the inquiry it was found that there was alleged negligence on the part of the appellant. He was found guilty. Inquiry report was submitted to the disciplinary authority. Disciplinary authority proceeded to issue show cause notice on 27.08.2007. The appellant had submitted his explanation on the inquiring officer's report and show cause notice on 10.09.2007.

3. Pursuant to the records, the disciplinary authority proceeded to impose the penalty of dismissal from service on 04.02.2008. Feeling aggrieved by the dismissal, appellant preferred appeal before the appellate authority on 03.03.2008 and the appellate authority has affirmed the order of the disciplinary authority on 24.04.2010. Consequently, the appellant filed CWJC No. 17495 of 2011.

4. The appellant who was a sub-staff is governed by a separate set of disciplinary regulation and Rules and so also Deputy Manager, Devendra Singh is governed by separate disciplinary regulation.



Consequently, they have been subjected to different inquiry proceedings under different regulations. Devendra Singh was punished with penalty of reduction of four stages in the time scale of pay for four years with cumulative effect.

5. Both the counsels are not assisting with the records. In fact, Bank counsel was requested to secure the records and he has instructions that no records are available. Hence, matter is admitted for hearing.

3. The respondent – Bank counsel is not in a position to secure and produce records in order to ascertain what are the findings. On the other hand, he is relying on Annexure - 4 dated 04.07.2006, insofar as submission of petitioner's version before the Chief Vigilance Officer, Central Office.

4. The alleged allegation is relating to shortage of cash of Rs. 5 lakhs plus 10,000/- (Rupees Ten Thousand). Strong room of the Branch was managed by two officials *namely* the appellant and *Devendra Singh*, Deputy Manager, in other words, the object of managing strong room of the Branch is to have a check and balance. Therefore, two sets of different keys were with the appellant and *Devendra Singh*, in other words, strong room cannot be opened in the absence of these two persons with their respective keys allotted to them by the competent authority / Branch Manager. On 22.06.2006, *Devendra Singh* neglected the



aforementioned system, on the other hand, in a fit of anger, he had asked the appellant to open the strong room and proceed to function the cash transactions. During the course of the cash transaction, the appellant is stated to have paid excess amount to one of the customer and it was noticed by the appellant, resultantly, he has tried to find the customer outside the Bank. In the meanwhile, *Devendra Singh* and others were found in the strong room. There are serious lapses on the part of *Devendra Singh* to the extent that in the first morning session, he has not accompanied appellant to open the strong room, on the other hand, in a fit of anger, he had asked the appellant to open on his own along with *Devendra Singh's* keys. Further, when the appellant was not in the Bank premises and his key was handed over to *Devendra Singh* and he was in search of customer who has been paid excess to the tune of Rs. 10,000/-, *Devendra Singh* and others were found in strong room. Therefore, *prima facie Devendra Singh* is responsible for two alleged incidents *namely* in the morning session he did not accompanied the appellant while opening the strong room and further verification of cash and if any register is maintained, the same was required to be signed by both the appellant and *Devendra Singh*.



5. Further, when the appellant has handed over the strong room's key while in search of customer who has been paid excess of Rs. 10,000/-, during that intervening period, *Devendra Singh* has abused the key of the strong room of his own along with appellant's key. Faced with these alleged incidents read with the disciplinary proceedings initiated against both of them, respondent - Bank has taken lenient view in not dismissing the *Devendra Singh* from service on the other hand he has been punished with the penalty of reduction of four stages in the time scale of pay for four years with cumulative effect. Therefore the learned Single Judge has committed error in not appreciating the discrimination insofar as imposition of penalty of misconduct. In fact the officer's lapse in the present alleged allegations are serious than appellant, on the other hand appellant has been punished with the penalty of dismissal from service. In the light of these facts and circumstances, the appellant has made out a *prima faice* case so as to interfere with the order of the learned single Judge dated 15.04.2019 passed in CWJC No. 17495 of 2011 and it is set aside so also dismissal order dated 04.02.2008 is set aside.

6. The matter is remanded to the disciplinary authority to revisit and impose the penalty of reduction of four stages in the time scale of pay for four years with cumulative effect, which has



been imposed on *Devendra Singh* so as to avoid discrimination insofar as imposition of penalty. The above exercise shall be completed within a period of four months from the date of receipt of copy of this order. The appellant shall be extended all service and monetary benefits, during the intervening period. Further re-fixation of pay from the date of dismissal till his attaining age of superannuation shall be undertaken.

7. With the above observation, the present LPA No. 1146 of 2019 is allowed while extending service and monetary benefits.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.01.2025
Transmission Date	NA

