

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2909 of 2020

Binod Kumar Anand @ Vinod Kumar Anand, Son of Late Munna Babu,
Resident of Mohalla- Bichli Adaan, P.O. and P.S.- Sohsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The Madhya Bihar Gramin Bank Now South Bihar Gramin Bank through its Chairman Head Office Vishnu Commercial Complex Near National Highway Petrol Pump, Bye-pass N.H.30 Asochak, Patna- 800016.01.
2. The Board of Directors-cum- Appellate Authority Madhya Bihar Gramin Bank, Head Office.
3. The Chairman Madhya Bihar Gramin Bank, Now South Bihar, Gramin Bank.
4. The Chairman-cum- Disciplinary Authority Madhya Bihar Gramin Bank, Now South Bihar, Gramin Bank.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Mr. Amaresh Kumar, Advocate Ms. Shrishti Rani, Advocate Mr. Bijay Kr. Pandey, Advocate
For the Respondent/s	:	Mr. Mahesh Narayan Parbat, Sr. Advocate Mr. Praveen Prabhakar, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 23-02-2024

Heard learned counsel for the petitioner and learned
counsel for the Madhya Bihar Gramin Bank now South Bihar
Gramin Bank (hereinafter referred to as 'the Bank').

2. The present writ petition has been filed for
quashing of the order dated 01.10.2018 passed by the Appellate
Board, Madhya Bihar Gramin Bank issued on 08.10.2018 vide
Ref. No. HO/DAC/8038/18 by which the respondent has
imposed a major penalty of "Removal from service which shall
not be a disqualification for future employment" in place of



dismissal which shall ordinarily be a disqualification for future employment. Further prayer has been made to quash the order dated 26.04.2013 passed by the respondent Chairman -cum – Disciplinary Authority, Madhya Bihar Gramin Bank, contained in Letter No. MBGB/HO 1315 whereby the respondent has inflicted major punishment of dismissal from service and disqualification for future employment on the petitioner. Further prayer has been made for quashing the punishment order dated 26.04.2023 and the appellate order dated 10.09.2013 as well as subsequent order dated 30.09.2019.

3. Learned counsel for the petitioner further submits that prior to filing the present writ petition, the petitioner has earlier moved twice before this Hon'ble Court. Firstly, CWJC No. 3610 of 2014 has been filed by the petitioner by challenging the letter dated 10.09.2013 issued by the Chairman, Madhya Bihar Gramin Bank about the dismissal of the appeal by the appellate authority as well as the punishment order dated 26.04.2023. Counsel further submits that in the said writ petition, vide order dated 14.02.2024, this Hon'ble Court has pleased to set aside / quash the appellate order dated 10.09.2013 and the operative part of the order is as follows:-

“7. In view of the above, the impugned order / decision of the appellate



authority as contained in letter dated 10.09.2013 is quashed. The Respondent-Bank is directed to pass a fresh order dealing with the grounds of the petitioner in his memo of appeal. The appellate authority must pass the order afresh pursuant to this order within a maximum period of six months from the date of the receipt / communication of this order.

8. This application is allowed with the observation as above.”

4. Learned counsel for the petitioner further submits that after the said order, the petitioner has filed representation and in compliance of the said order, another order was passed by the authority on 23.04.2014. Learned counsel further submits that being aggrieved and dissatisfied from the appellate order dated 23.04.2014, the petitioner has moved before this Hon'ble Court by filing another writ petition bearing CWJC No. 13095 of 2014 which was allowed vide order dated 03.07.2018 and the appellate order was set aside. In this order, this Hon'ble Court has pleased to observed as under :-

“ 7. This Court is therefore, of the opinion that the issue regarding the relevance of non-taking of cognizance against the petitioner in respect of some of the charges similar to those for which by the respondent authorities and if it is found to be a relevant



consideration, quantum of punishment may be reconsidered by the appellate authority.

8. The writ petition is disposed off.”

5. Learned counsel further submits that thereafter, the petitioner has again filed representation before the appellate authority and the appellate authority vide order dated 01.10.2018 has passed the order which is impugned in the present writ petition. Learned counsel submits that for the single act, the disciplinary proceeding as well as the FIR both were lodged. In the FIR chargesheet has not been filed against the petitioner and due to this no cognizance was taken as the final form has been filed and it has been accepted by the Chief Judicial Magistrate. But this aspect has not been considered by the appellate authority at all. The disciplinary authority ignoring the order passed in the criminal proceeding that the police has not found case against him, the punishment order has been passed in the departmental proceeding and, therefore, the petitioner has no option but to move before this Court in the present writ petition.

6. Learned Sr. Counsel for the Bank in defense submits that the disciplinary authority has found a total of 13 charges against the petitioner. Out of 13 charges, charges Nos. 1,



2, 3, 5, 7, 8, 9, 10, 11,12, and 13 were found proved, charge No. 4 was found partially proved whereas charge no. 6 was not found proved, and, thereafter, major penalty has been imposed which was affirmed before the appellate authority.

7. Counsel further submits that in the earlier writ petition CWJC No. 3610 of 2014, this Hon'ble Court has pleased to direct the Bank at the time of setting aside the appellate order that whatever the grounds taken in the memo of appeal, must be taken into consideration and there must be separate finding. On this ground, the original order has not been touched but the appellate order has been set aside. The second time, when the appellate authority has passed the final order then a plea of acquittal in a criminal case has been taken by the petitioner before the appellate authority which was challenged in the writ petition that the question of non taken of cognizance amounts to acquittal has not been taken into consideration. But when the matter was remanded back second time, the appellate authority at the time of passing final order dated 01.10.2018 in compliance of order passed in CWJC No. 13095/2014 has taken due precaution, that those matters which cover up the allegation of FIR has not been acknowledged rather charge No. 1, 3, 8 and 13 which were not found place in the FIR of the criminal case



and a complete discussion of those charges has been made in the appellate order.

8. Learned counsel also submits that it is well established that criminal proceedings and departmental proceedings are two different aspects of the matter. The standard of proof in the criminal proceeding and in the departmental proceeding are different. In the order impugned which has been challenged by the petitioner, there is a categorical finding and due scrutiny has been made by the appellate authority that only those charges which are not found place in the FIR have been taken into consideration on which complete discussion has been made in paragraph 8 of the said impugned order and, therefore, there is no need of any interference in the appellate order which has been challenged by the petitioner.

9. After going through the submissions and hearing the parties, it transpires to this Court that the appellate Court has duly considered and taken precautions of the observation made by this Hon'ble Court vide order dated 01.10.2018 passed in CWJC No. 13095 of 2014 and categorically discussed in the said order that charge Nos. 1, 3, 8, 13 were not found place in the FIR of the criminal case and separate discussion has also been made on those charges.



10. It is also well established that neither the pendency of departmental proceeding bars the criminal case nor the pendency of criminal case bars the departmental proceeding since both are completely separate proceedings and initiated with separate horigen. In criminal cases, the mental element has to be tested whereas in the departmental proceeding, the element of service jurisprudence has to be tested. In this background, this Court found that there is no merit in this case and, therefore, this writ petition is dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	29/02/2024
Transmission Date	NA

