

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1622 of 2019

In

Civil Writ Jurisdiction Case No.5204 of 2016

=====

Pawan Kumar Sharma Son of Sri lal Sharma, C/o Sri Ram Vastra Bhandar
Gola Road Dumraon, Station Road Ward no. 03 Near Vishnu Mandir, P.S.
Dumraon, District- Bhojpur, Now Buxar, Branch Manager (Now compulsory
retired) Dakshin Bihar Gramin Bank erstwhile of Madhya Bihar Gramin Bank
Kharhatand Buxar.

... .. Appellant/s

Versus

1. The Dakshin Bihar Gramin Bank erstwhile Madhya Bihar Gramin Bank through its Chairman, Head Office- Meena Plaza, south of Museum P.S.- Kotwali Town and District- Patna.
2. The Chairman - cum Disciplinary Authority, Madhya Bihar Gramin Bank, Head Office- Meena Plaza South of Museum, P.S. Kotwali, Town and District- Patna.
3. The General Manager, Human Resources Development Department, Madhya Bihar Gramin Bank, Head Office- Meena Plaza South of Museum, P.S. Kotwali, Town and District- Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Mukesh Kumar No1, Adv.
For the Respondent/s : Mr.M.N. Prabhat, Sr. Adv.
Mr.Ved Prakash Srivastava, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 21-08-2024

In the present LPA the appellant has assailed the order of the learned Single Judge dated 07.11.2019 passed in CWJC No. 5204 of 2016.

2. Brief facts of the case are that appellant while working as a Branch Manager in Gara Branch of the then Madhya Bihar Gramin Bank (now known as Dakshin Bihar



Gramin Bank) was subjected to disciplinary proceedings on various allegations on alleged charges I (1, 2, 3B, 4, 5, 6 and 7). He had submitted his reply to the charge memo on 14.10.2014 against the charge memo dated 01.09.2014 which was not satisfied by the disciplinary authority. Resultantly, disciplinary authority proceeded to appoint inquiring officer and presenting officer on 16.10.2014. The inquiring officer concluded the inquiry on 16.03.2015 while holding Charge No. I (1, 2, 3B, 4, 5, 6 and 7) are proved and Charge No. I(3A) was not proved. On receipt of inquiring officer's report, the disciplinary authority issued a second show cause notice on 16.03.2015. There was no reply to the second show cause notice on behalf of the appellant. Resultantly, disciplinary authority proceeded to impose the penalty of compulsory retirement on 23.06.2015 under Regulations 39(4) (Kh)(III) of Madhya Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010. Feeling aggrieved by the penalty order the appellant preferred appeal before the appellate authority on 03.06.2015 and it was dismissed on 15.10.2015. Resultantly, he had preferred CJWC No. 5204 of 2016 before this Court. The learned Single Judge dismissed CJWC No. 5204 of 2016 on 07.11.2019. Feeling aggrieved by the order of the learned Single Judge the present



LPA is presented.

3. Learned Counsel for the appellant submitted that order of the learned Single Judge is to be interfered and set aside including imposition of penalty of compulsory retirement on the score that appellant has not been provided ample opportunity of hearing during the course of disciplinary inquiry conducted by the inquiring officer. It was submitted that appellant was not provided opportunity of cross examining the witnesses and also to lead evidence. Such a contention has been raised for the first time in writ petition in para 20. The aforementioned contention cannot be appreciated at this stage for the reasons that he had opportunity of addressing the aforementioned issue of not providing opportunity of cross examine and lead the evidence before the inquiring officer as and when the inquiring officer closes the evidence stages. He had an opportunity of filing his written argument. Further we have noticed that appellant has not filed his reply to the second show cause notice. Therefore, the aforementioned contention cannot be appreciated at this belated stage.

4. Hon'ble Supreme Court in the case of ***Union of India and Others. Vs. Dalbir Singh*** reported in ***(2021) 11 SCC 321*** laid down principle under what circumstances writ court



can interfere with the disciplinary proceedings. Similarly, the Hon'ble Supreme Court in the case of *Union of India and Others vs. P. Gunasekaran* reported in *(2015) 2 SCC 610* laid down principle. Having regard to the conduct of the appellant during the inquiry proceedings and the fact that he had waived of his right to file reply at the relevant stage of proceedings that he was not permitted cross examination of witness. Perusal of records it is evident appellant has not urged the aforementioned contentions in writing before the Inquiry Officer.

5. Taking note of these facts and circumstances, the appellant has not made out a case so as to interfere with the order of the learned Single Judge. Accordingly, the present LPA No. 1622 of 2019 stands dismissed.

6. Pending I.A.'s, if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.09.2024
Transmission Date	N.A.

