IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1457 of 2020

Shilpi Kumari Wife of Sri Om Prakash @ Om Prakesh, Permanent Resident of Thakur Beering, Kutriyar Market, Tekari Road, Police Station- Kotwali, District- Gaya at Present resident of Shanti Sadan Purvi Ram Krishna Nagar, Near By Pass, P.O. Jaganpura, Police Station- Ram Krishna Nagar, District- Patna- 800027

... ... Petitioner/s

Versus

1. The Uttar Bihar Gramin Bank through its Chairman, Head Office, Kalambag Chowk, Muzaffarpur.
2. The Chairman, Uttar Bihar Gramin Bank, Head Office, Kalambag Chowk, Muzaffarpur.
3. The General Manager-Cum- Appellate Authority, Uttar Bihar Gram Bank, Head Office, Kalambag Chowk, Muzaffarpur.
4. The Chief Manager-Cum- Disciplinary Authority, Uttar Bihar Gramin Bank, Head Office, Kalambag Chowk, Muzaffarpur.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Adv. Mr. Ram Binod Singh, Adv.
For the Respondent-Bank	:	Mr. Prabhakar Jha, Adv. Mr. Amitesh Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 26-09-2024

Learned Senior Counsel for the petitioner and Learned Counsel for the Uttar Bihar Gramin Bank are present and they have already completed their argument and the case has been fixed for today under the heading 'For Judgment'.

2. The present writ petition has been filed for the following relief/s:-

I. For quashing of the order dated 16.08.2019 passed by the Chief Manager-Cum-Disciplinary Authority, Uttar Bihar Gramin Bank, Muzaffarpur (annexed as Annexure-6), by which punishment by way of dismissal from the service has been awarded to the petitioner.

II. For quashing of the order dated 19.09.2019 passed by the General Manager-Cum-Appellate Authority, Uttar Bihar Gram Bank, Muzaffarpur (annexed as Annexure-9) by which interference in the findings of the order passed by the Disciplinary Authority has been denied.

III. To exonerate the petitioner from the charges and major penalty of dismissal from the service with consequential benefits.

3. Learned senior counsel for the petitioner submits that petitioner was working as Office Assistant in Uttar Bihar Gramin Bank, Regional Office, Hajipur, Vaishali and while she was posted as Office Assistant at Ramdauli Branch, Hajipur, Vaishali, she has been served a charge memo dated 28.12.2018 by the Chief Manager-Cum-Disciplinary Authority, Uttar Bihar Gramin Bank, Muzaffarpur (annexed as Annexure-1) with six allegations. Counsel submits that in compliance of the direction made in the charge memo, the petitioner submitted a detailed reply with relevant circulars on 21.01.2019. The petitioner was

subjected to departmental proceeding, enquiry was conducted and the defence representative also participated before the Enquiry Officer, which was followed by the demand of second show cause notice with Enquiry report *vide* letter dated 29.07.2019. The petitioner has submitted reply to the second show cause on 12.08.2019, but without considering the defence and plea, final order has been passed on 16.08.2019 by the Chief Manager-Cum-Disciplinary Authority, Uttar Bihar Gramin Bank, Muzaffarpur awarding the punishment to the petitioner as dismissal from the service, in terms of Regulation 39(2)(b)(vi) of Uttar Bihar Gramin Bank (Officers & Employees) Service Regulations, 2010 read with Uttar Bihar Gramin Bank Service (Amendment) Regulations, 2013. Counsel further submits that petitioner has preferred appeal on 30.08.2019, but the Appellate Authority *vide* its order dated 19.09.2019, refused to interfere in the decision made by the Disciplinary Authority, thereby rejecting the appeal and affirming the order of punishment.

4. Learned senior counsel for the petitioner further submits that in the disciplinary proceeding, there are series of deficiencies. It has been submitted that the documents which formed the basis of the charge sheet, were never exhibited by the Management. Documents had been demanded by the

petitioner but it was denied, particularly document-M, Ex-35. Senior Counsel submits that the petitioner has explained about deposit of cash money in her Savings Bank A/c by selling some jewelleries which has not been accepted. Senior Counsel also submits that the borrower accepted the withdrawl and deposited the entire amount with regard to charge no.5 which has not been considered at all. Senior Counsel further submits that it is a case of non-supply of documents. Enquiry Report of four men enquiry team was not provided to the petitioner. It has also been submitted that the petitioner has neither been provided opportunity to examine the member of the enquiry team during the Departmental Proceeding nor the report was produced before the Enquiry Officer. Counsel submits that Audit Report was also not supplied to the petitioner which is the basis of the departmental proceeding. Senior Counsel further submits Annexure-4 which is annexed in the present writ petition is the guidelines for removal of accounts in which every responsibility was fixed on the Branch Manager and Office Assistant has no responsibility therein. Even then, petitioner has been held responsible.

5. In support of his argument, learned senior counsel for the petitioner relied on a judgment on the point of

non-supply of relevant documents in case of ***State of U.P. Vs. Shatrughan Lal & Anr.*** reported in ***(1998) 6 SCC 651*** particularly paragraph nos.4, 6 and 9 of the said judgment. Senior Counsel further submits that findings of the Enquiry Officer is perverse due to the reason that the defence version has not been considered at all. Senior Counsel submits that the order passed is completely a non-speaking order. In support, learned senior counsel for the petitioner relied on the judgment in case of ***Roop Singh Negi Vs. Punjab National Bank & Ors.*** reported in ***(2009) 2 SCC 570***. He further submits that complete discrimination has been made with the petitioner in awarding punishment to the employees facing the same set of allegation and in support thereof, he relied on a judgment in case of ***Life Insurance Corporation of India & Ors. Vs. Triveni Sharan Mishra*** reported in ***(2014) 10 SCC 346***. Learned senior counsel on behalf of the petitioner concluded his submissions stating that it is a fit case for interference by this Hon'ble Court in the light of discussions made above and hence, the orders passed by the Disciplinary Authority as well as by the Appellate Authority may be set aside and the petitioner be directed to re-instate in the service and direction for payment of consequential benefits also be made to the petitioner.

6. Learned Counsel appearing on behalf of Uttar Bihar Gramin Bank on the other hand submits that the present case is a case in which disciplinary proceeding has been conducted completely following the due process of law as well as following the Principles of Natural Justice. Every opportunity either by way of providing documents on the basis of which charge framed, opportunity to defend has also been provided to the petitioner. Enquiry Officer after providing due opportunity to the petitioner as well as to the Presenting Officer of the Bank, have reached on the findings on every charges separately and concluded all six charges levelled against the petitioner as proved. It has been submitted that the entire enquiry has been concluded in 10 sittings and total 53 documents/papers were considered and 04 witnesses were produced during enquiry proceeding. It has also been submitted that the petitioner (defence side) produced in total 11 evidences. Two defence witnesses during departmental enquiry has been produced by the petitioner in her defence.

7. Thereafter, findings of the Enquiry Officer was communicated to the petitioner and directed to file the second show cause. Counsel submits that the Chief Manager-Cum-Disciplinary Authority, Uttar Bihar Gramin Bank, Muzaffarpur

(respondent no.4) after considering the findings of the Enquiry report and the second show cause, has passed the final order on 16.08.2019. Counsel submits that in the order, findings of the Disciplinary Authority has come separately on every charge and then the order of punishment has been passed in which award of punishment by way of dismissal from the service has been imposed upon the petitioner.

8. Learned Counsel for Uttar Bihar Gramin Bank further submits, that the petitioner has preferred appeal before the Appellate Authority i.e. General Manager of the Bank against the decision of the Disciplinary Authority, in which every points taken in the appeal by the petitioner has duly considered and after considering every grounds made in appeal point wise, the Appellate Authority has refused to interfere in the findings of the Disciplinary Authority and affirm the decision passed by the Disciplinary Authority. Counsel submits that from the decision made by the Enquiry Officer, Disciplinary Authority as well as the Appellate Authority, it transpires that all documents relating to the charges were duly provided, witnesses examined and then the authority concerned has reached on the findings. Counsel further submits that so far as the question of discrimination in punishment is concerned, it is not applicable in

the present case due to the reason that for the alleged wrongs, letters were issued to the petitioner and one Bhrigunath Singh another staff of the bank. Bhrigunath Singh responded on the said letter, by his reply and the officials were satisfied and charge memo has not been issued to him. Whereas, by the reply of the petitioner, the officials were not satisfied and charge memo was issued against the petitioner. Therefore, the defence of the petitioner that both cases stand on the same footing, is not correct. Because, in case of petitioner, charge memo issued, but in case of Bhrigunath Singh, charge memo has not been issued. Counsel further submits that the cash credit transaction of Rs. 8,32,350/- (Rupees Eight Lakh Thirty Two Thousand Three Hundred Fifty) were found in the SB and OD accounts of the petitioner in addition to other wrongs, whereas, in case of Bhrigunath Singh, it is not so. Therefore, the question of discrimination is not attracted in the present case.

9. In support of his argument, learned counsel for the Uttar Bihar Gramin Bank relied on a judgment of Hon'ble Division Bench of this Court decided on 06.03.2018 in case of ***Shibatosh Dutta Vs. The Uttar Bihar Gramin Bank & Ors.*** passed in ***Letters Patent Appeal No.1555 of 2015*** in which the petitioner, who was an employee of respondent-Bank, posted as

Branch Manager at Ramdauli Branch of Uttar Bihar Gramin Bank has been charged with allegations and for the charges levelled against him, he has been subject to punishment and in this case, Hon'ble Division of this Court had refused to interfere and dismissed the LPA of the petitioner. Counsel further relied on a judgment in case of ***Regional Manager, UPSRTC, Etawah Vs. Hoti Lal & Anr.*** reported in ***2003 (3) SCC 605*** in which it has been held that *where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, highest degree of integrity and trust-worthiness is must and unexceptionable*. Counsel for the Uttar Bihar Gramin Bank further relied on a judgment in case of ***Ganesh Santa Ram Sirur Vs. State Bank of India & Anr.*** reported in ***(2005) 1 SCC 13*** and submits that Hon'ble Supreme Court of India has laid down that in case of misconduct against the bank officials involving his integrity, the matter should not be treated lightly and/or leniently by the courts. Counsel further relied on a judgment in case of ***Canara Bank Vs. V.K. Awasthy*** reported in ***(2005) 6 SCC 321*** and ***State Bank of India & Anr. Vs. Bela Bagchi & Ors.*** reported in ***(2005) 7 SCC 435*** where it has been held that the bank officials is required to exercise high standard of honesty and integrity. Counsel further relied on judgments in case of ***Damoh Panna Sagar Rural Regional Bank & Anr. Vs. Munna Lal Jain*** reported in ***(2005) 10 SCC 84, State Bank of India & Ors. Vs. Ramesh Dinkar Punde*** reported in ***(2006) 7 SCC 212, State Bank of India & Ors. Vs. S.N. Goyal*** reported in ***(2008) 8 SCC 92, General Manager (P), Punjab and Sind Bank & Ors. Vs. Daya Singh*** reported in ***(2010) 11 SCC 233*** and ***T.N.C.S. Corporation Ltd. Vs. K. Meerabai*** reported in ***(2006) 2 SCC 255***.

10. Based on all the judgments, counsel for the Uttar Bihar Gramin Bank submits that the Branch Manager/Officer and employees of any bank, nationalized or non-nationalized are expected to act and discharge their functions in accordance with the rules and regulations and they supposed to work with discipline and if the charged employee holds a position of trust where honesty and integrity are inbuilt, requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, highest degree of integrity and trust-worthiness is must and unexceptionable. Counsel for the respondent-Bank further relied on a judgment in case of ***The State of Bihar & Ors. Vs. Md.***

Alimuddin reported in ***(2014) 3 PLJR 802*** where it has been held that non-supply of documents will not vitiate the proceeding.

11. After hearing the pleadings and going through the records as well as judgments cited by both the parties in the present case, this Court finds that the most fatal document on which learned senior counsel for the petitioner relied is Annexure-4 which is a letter issued by the General Manager to the Regional Manager, All Regions which is letter No. HO/Credit Monitoring/09/2016-17/10 dated 27.04.2016 in which responsibility has been casted primarily on the Branch Manager in all matters which is the subject matter of the present case.

12. In the view of this Court, when a letter has been issued at the level of General Manager to do a work in a particular way to Branch Manager, does not mean that it is binding only on the Branch Manager and not binding on the subordinates. This Court is of the firm view that the said letter, which is annexed as Annexure-4 dated 27.04.2016 has been issued by the General Manager of the Bank to the Regional Manager, All Regions, where responsibility has been casted upon the Branch Manager. It means that it is the responsibility

casted upon the Branch Manager as well as upon all subordinates also. Here in the charges, it has been categorically alleged that the alleged wrongs have been done by the petitioner in connivance with the Branch Manager because the user-id and password of both Branch Manager as well as the Office Assistant (petitioner) have been used for alleged wrongs for which charge memo issued. Therefore, this Court is of the view that Annexure-4 shall not help the petitioner in any manner.

13. So far as the charges are concerned, it transpires to this Court that at every level i.e. at the level of Enquiry Officer, at the level of Disciplinary proceeding, at the level of the Appellate Authority, natural justice has been followed. All documents, witnesses & objections raised by the petitioner at every level have been duly considered and scrutinized by the respective officials at respective level and only thereafter, the Enquiry Officer, Disciplinary Authority and the Appellate Authority have reached on their independent findings. The judgment on which learned senior counsel for the petitioner relied in case of ***State of U.P. Vs. Shatrughan Lal & Anr. (supra),*** in which it has been held that when charge sheet is issued and copies not supplied in-spite of his request, then only this judgment shall apply. But here, it is not the case. In the

order of disciplinary proceeding, it has been specifically mentioned that the departmental enquiry has been concluded on 14.06.2019 in 10 sittings. Presenting Officer produced 53 Management exhibits, 04 Management witnesses in support of charges and CSE produced 11 evidences as defence evidence and 02 witnesses in her defence. Therefore, it is not the case that the Enquiry Officer has reached on the conclusion without any basis and therefore, this judgment shall also not help the petitioner in any manner.

14. The second judgment on which the learned senior counsel for the petitioner relied is ***Life Insurance Corporation of India & Ors. Vs. Triveni Sharan Mishra (supra)*** in which it has been held that for the same wrong, the petitioners of this case were awarded punishment of removal, whereas, in similar situation, one Daluram Patidar has been imposed only punishment of stoppage of increment of two years with cumulative effect. In this case, the dispute with regard to the mentioning of false statements of the educational qualification are the subject matter of the charge and two persons were charge-sheeted in which punishment has been imposed to one person as removal from the service and another person has imposed only punishment of stoppage of increment

of two years with cumulative effect. In this circumstance, Hon’ble Supreme Court of India has pleased to held that the imposition of similar penalty should be made after retirement of the petitioner. But, here in the present case, allegation of misrepresentation of educational qualification is not present. Here in the present case, charges have been made which directly touches the integrity and honesty in the working of the petitioner. Therefore, this Court is of the firm view that this judgment on which learned senior counsel for the petitioner relied, shall also not help him in any manner.

15. So far as the judgments on which learned counsel for the Uttar Bihar Gramin Bank relied is the judgment of Hon’ble Division Bench of this Court decided on 06.03.2018 in case of ***Shibatosh Dutta Vs. The Uttar Bihar Gramin Bank & Ors.*** passed in ***Letters Patent Appeal No.1555 of 2015.*** In this judgment and in other judgments, it has been specifically discussed and the ratio laid down by this Hon’ble Courts that the Branch Manager/Officer and employees of any Bank, nationalized or non-nationalized are expected to act and discharge their function in accordance with the rules and regulations of the Bank and allegation against the petitioner is very serious and grave in nature. Charged employee has to hold

a position of trust with honesty and integrity which is inbuilt requirements of functioning and therefore, it would not be proper to deal with the matter leniently.

16. In the light of the observations made above and the reasoning mentioned by this Court, this Court is not inclined to interfere in the orders passed by the Disciplinary Authority as well as by the Appellate Authority. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	26.09.2024
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