

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1978 of 2020**

Priyanka Kumari Wife of Gunjan Prabhakar, Previously residing at Uttar Harishchandrapur, Police Station Harishchandrapur Malada, West Bengal at present working as Senior Associate, Administrative Office, State Bank of India, Purnea.

... .. Petitioner/s

Versus

1. State Bank of India through its Chairman, Central Office, State Bank of India, State Bank Bhavan, Madame Cama Road, Mumbai.
2. The Chief General Manager, 7th Floor, Local Head Office, State Bank of India, West Gandhi Maidan, Patna.
3. The Dy. General Manager, State Bank of India, Zonal Office, Purnea.
4. The Assistant General Manager-cum-Disciplinary Authority (Region-III), State Bank of India, Zonal Office, Purnea.
5. Regional Manager, State Bank of India, Regional Business Office-1, Purnea.
6. The Chief Manager, State Bank of India, Branch Office, Purnea.
7. The Branch Head, State Bank of India, Branch Office, Purnea.
8. Anand Kumar Mishra, the then Chief Manager, S.B.I. Purnea Branch, Purnea.
9. Internal Complaint Committee, RBO, Purnea through its Chairperson.
10. The Chairperson, Internal Complaint Committee, RBO, Purnea.

... .. Respondent/s

**Appearance :**

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|--------------------------|---|------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Sanjay Kumar Verma, Advocate<br>Mr. Abhishek Kumar, Advocate |
| For the Respondent/s     | : | Mr. Kaushlendra Kumar Sinha, Advocate                            |
| For the Respondent Bank: | : | Mrs. Namrata Mishra, Advocate                                    |

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 11-01-2024**

Heard learned counsel for the petitioner, learned  
counsel for the respondent/Bank and learned counsel for the  
State.

2. Learned counsel for the petitioner submits that



the present writ petition has been filed demanding relief by way of setting aside the decision of the respondents to initiate the disciplinary action against the petitioner, quashing the charge sheet dated 31.10.2019 framed in reference to the outcome of the Internal Complaint Committee within the Bank constituted to hear the petitioner's complaint and further to declare the said action that petitioner's absence is illegal. The further prayer has also been made that taking proceeding on the complaint of petitioner as before Internal Complaint Committee constituted de hors the Rules be declared as bad and, therefore, subsequent action pursuant to the finding of the Internal Complaint Committee be declared nonest in the law with other reliefs. Counsel further submits that by way of I.A. No.1 of 2023, the prayer of challenging the charge sheets dated 24.01.2020 and enquiry report dated 21.04.2020 were also challenged after allowing the said I.A. vide order dated 24.11.2023. Counsel further submits that the respondent has filed supplementary counter affidavit by which it transpires to the petitioner that final order has been passed in that disciplinary proceeding against him and it is due to this reason the petitioner has filed the present I.A. No.2 of 2023 challenging the final order passed by the disciplinary authority before this Court, primarily, on the



ground that the said final order has been passed in gross violation of natural justice without granting any opportunity to the petitioner to defend. Therefore, he submits that the prayer made in paragraphs-8 and 10 of the I.A. petition as well as the grounds mentioned in paragraph-9 of the said I.A. may be allowed and the prayers and the grounds may be treated as part and parcel of the writ petition.

3. Learned counsel for the State Bank of India, on the other hand, vehemently opposes the prayer of the petitioner and submits that from the original prayer it transpires that petitioner has demanded prayer of quashing the decision of the Internal Complaint Committee formed under the Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and subsequently the charge sheet issued to the petitioner in the year 2019 by way of addition of prayer by I.A. No.1 of 2023 challenging the second charge sheet issued in the month of January, 2020 as well as the enquiry report issued in the month of April, 2020.

4. Learned counsel for the respondent-Bank further submits that final order has already been passed by the disciplinary authority, which is an appealable order vide order as per Rule 521(12) of Sastry Award and paragraph-14 of the



memorandum of settlement dated 10.04.2002. Counsel further submits that the decision of Internal Complaint Committee is challengeable before Labour Tribunal according to Section 18 of the Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013, but the petitioner has not preferred to challenge it anywhere and, therefore, it acquires finality.

5. Learned counsel for the Bank further submits that in paragraph-6 of the supplementary counter affidavit, it has been specifically stated that earlier charge sheet issued vide memorandum reference dated 31.10.2019 has not been abandoned and fresh charge sheet vide memorandum No.67 dated 24.01.2020 has been issued in which two additional charges have also been incorporated. Counsel submits that the petitioner was communicated about the date of enquiry proceeding through registered post and special messenger at her recorded address before every hearing which has been accepted by the parents, the notice dated 25.02.2020 and remaining letters were not received by them, as such, registered post returned undelivered. It has also been mentioned that the enquiry officer sent mails and SMS on her registered mobile number, but petitioner made no communication. On 06.04.2020, the enquiry



officer sent whatsapp message and text message to the petitioner for personal enquiry and through video/voice calls on 08.04.2020. The petitioner replied through Whatsapp that she had not received any letter for her appearance in the enquiry proceeding. Thereupon, the Enquiry Officer decided to provide another opportunity for being heard and sent letter on 13.04.2020 on her recorded address along with entire proceeding details. It has been stated that the petitioner has accepted all letters from the Bank's messenger, but refused to give acknowledgment and after much persuasion petitioner's mother gave acknowledgment. The petitioner has sent her reply from her mobile No.8637874913 on whats-app No.9771475125 of the Enquiry Officer. Thereafter, inquiry was completed on 18.04.2020. It has been submitted that the petitioner deliberately evaded participation in the Enquiry Proceeding. Counsel further submits that the enquiry was conducted and enquiry officer has submitted its report on 21.04.2020 to the disciplinary authority and the disciplinary authority forwarded a copy of the inquiry report to the petitioner vide letter No.125 dated 06.05.2020 asking for her submissions.

6. Learned counsel for the Bank further stated that opportunity of personal hearing /submissions on quantum of



punishment was also accorded to the petitioner by the Disciplinary Authority vide order No.218 dated 16.05.2020, letter No.309A dated 26.05.2020, letter No.433 dated 11.06.2020, letter No.494 dated 20.06.2020 and letter No.61 dated 01.07.2020. But the petitioner did not submit her submission on the notices either on one pretext or other. Thereafter, the disciplinary authority has no option but to pass order of punishment following due process on 14.07.2020 and communicated to the petitioner vide letter No.65 dated 14.07.2020. Counsel further submits that it is very much relevant to mention that the petitioner thereafter submitted a request letter on 05.10.2020, which was received in Bank on 20.10.2020 requesting sanction of leave for the period (i) Sick leave upto February, 2020; (ii) Special sick leave upto 16.06.2020 and (iii) maternity leave upto 16.12.2020. The controller of the petitioner subsequently sanctioned the privilege leave from 01.03.2020 to 20.03.2020; Special sick leave (Covid-19) from 21.03.2020 to 16.06.2020 and Maternity leave from 17.06.2020 to 16.12.2020 in the month of November, 2020. Counsel submits that the defence taken by the counsel for the petitioner that there is violation of natural justice is not correct and may not be accepted. In the conclusive argument counsel



for the Bank reiterated that once final order has been passed then the only opportunity left to the petitioner to avail the remedy of appeal and, as such, counsel submits that I.A. No.2 of 2023 may not be allowed.

7. Counsel for the petitioner is relying on judgment of **M/S. Radha Krishna Industries Vs. State of Himanchal Pradesh and Others** passed in **Civil Appeal No.1155 of 2021** (arising out of **S.L.P. (C) No.1688 of 2021** reported in **(2021) 6 SCC 771** and in the case of **Prem Ranjan Kumar Vs. State of Bihar through the Principal Secretary, Co-operative Department and Others** reported in **2021(C) PLJR 364**, by virtue of those judgments he submits that wherever there is a violation of natural justice then the writ Court ought to entertain the petition directly and there is no need to follow the established procedure of law to prefer appeal.

8. After going through the pleadings, documents and those judgments, this Court is of the firm view that in the light of the pleadings made in paragraph-6 of the supplementary counter affidavit, it transpires to this Court that the present case is absolutely not comes within the purview of violation of principle of natural justice. As such, it is directed to the petitioner to avail the remedy of appeal and, hence, this writ



petition is dismissed with liberty that the petitioner shall prefer appeal. The appellate authority is directed to condone the delay if there is any delay in filing the appeal.

**(Dr. Anshuman, J)**

Mkr./-

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| AFR/NAFR          | NAFR       |
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