

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 4664 of 2023**

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Sujit Kumar @ Sujeet Kumar son of Late Tej Narayan Yadav, resident of  
Yadav Lane, Digha Ghat, P.S. Digha, District - Patna.

... .. Petitioner/s

Versus

1. The Punjab National Bank through its The Executive Director, Punjab National Bank, Corporate Office, Plot No. 4, Section - 10, Dwarka, New Delhi - 110075.
2. The Deputy General Manager, Punjab National Bank Human Resource Manager Division (HRMDS), Corporate Office, Plot No. 4, Section - 10, Dwarka, New Delhi - 110075.
3. The General Manager (Zonal Manager), Punjab National Bank, Zonal Office - Patna, 2nd Floor, Chankya Tower, R Block, Patna - 800001.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Ms Archana Sinha, Sr Advocate with  
M/s Swarna Raj, Komal, Advocates

For the Respondent/s : M/s Mritunjay Kr, Shilpi Singh, Vibhuti Kr,  
Advocates

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**CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL**  
**ORAL JUDGMENT**

**Date : 20-01-2025**

This petition has been preferred by the petitioner  
seeking the following reliefs:

***“A. A writ in the nature of certiorari or any  
other appropriate writ, order/orders, direction for  
quashing the following:-***

***i. The order dated 19.11.2020  
passed by Zonal Manager -cum-  
Disciplinary Authority of Punjab National  
Bank by which the petitioner was awarded  
a major penalty of “dismissal which shall  
originally be a disqualification for further  
employment” in terms of Regulation 2011  
of Punjab National Bank Officer  
Employees (Discipline and Appeal  
Regulations) 1977.***



***ii. The order dated 15.12.2021 passed by Executive Officer -cum- Appellate Authority Punjab National Bank by which the appeal preferred by the petitioner against the order dated 19.11.2020 was dismissed on the ground that his conviction in criminal cases and sentence has not been set aside by the Hon'ble Patna High Court and as such the matter is still sub-judice and that the appellant has not been acquitted of the conviction.***

***iii. The order dated 02.03.2023 passed by Deputy General Manager by which the representation of the petitioner dated 21.02.2023 was dismissed even after informing that the conviction in Criminal Appeal (DB) No 207 of 2020 has been stayed by the Hon'ble High Court."***

2 The facts of the case are that the petitioner was appointed as Clerk in the year, 2003. On the date of occurrence, i.e., 05.03.2012, he was present at his office. On that day, the Branch Manager, Bharatpura was shot dead near village – Katari in the district of Patna for which Bikram PS Case No 42 of 2012 (Annexure 1) was registered. It was alleged that the said Branch Manager was killed by the petitioner herein as well as one another accused person. After investigation, charge sheet was filed and after conclusion of trial, the petitioner was convicted on 04.12.2019 and subsequently on 06.12.2019, he was sentenced to undergo life imprisonment and a fine of Rs 20,000/- for the offence punishable under Sections 302/120B of the IPC.



**3** According to the pleadings, on the date of incident, the petitioner was present in the Bank itself and in the FIR also, his name is not reflected and in the first charge sheet too, the name of the petitioner was not there. On the basis of faulty investigation, he has been implicated in the alleged crime. However, after conviction imposed upon him by the trial Court, appeal was preferred by the petitioner. Meanwhile, on the basis of the said conviction, on 19.11.2020, the petitioner was dismissed from his services by the Zonal Manager, Patna of Punjab National Bank (Annexure 2). By order dated 15.07.2021 passed in Criminal Appeal (DB) No 207 of 2020, this Court granted bail to the petitioner. Subsequently, this Court, vide order dated 01.02.2023 (Annexure 6) also stayed the conviction of the petitioner for the aforesaid offence which has been imposed upon him by the Trial Court. Thereafter, the petitioner moved an application dated 21.02.2023 to the appellate authority for stay of his dismissal which has been rejected through Communication dated 02.03.2023 (Annexure 8) on the ground that the appeal preferred by the petitioner has already been rejected by the departmental appellate authority. Hence, this petition.

**4** It is submitted by the learned counsel for the petitioner that the dismissal of the petitioner is only based upon his



conviction. However, once this Court stayed the conviction of the petitioner then on this ground alone, he is entitled to get his reinstatement as there is no effective conviction of the petitioner present now. He further submits that on the ground of parity also, the petitioner is entitled to get reinstatement as one Sanjay Kumar, Ex Manager of Tekari Road Branch, Gaya has been reinstated on the ground of stay of his conviction.

5 Learned counsel for the respondents opposes the argument raised by the learned counsel for the petitioner and submits that the case of the petitioner herein is not identical to the case of Sanjay Kumar which has been referred by the learned counsel for the petitioner. He further submits that Sanjay Kumar was awarded major penalty of removal from service under sub clause (i) of Clause 4 of the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977 (for brevity, *the 1977 Regulations*) and the petitioner herein has been awarded the penalty of dismissal, as contained in sub clause (j) of Clause 4 of the 1977 Regulations. He further submits that since the petitioner has been convicted for the offence punishable under Section 302 of the IPC which is a grave offence, therefore, he has been rightly awarded the punishment of dismissal and which has also rightly been confirmed by the appellate authority.



6 I have heard learned counsel appearing for both the parties and the documents annexed with the petition as well as the counter affidavit. Also gone through the relevant provisions of the 1977 Regulations.

7 At this juncture, it would be appropriate to reproduce sub-clause (i) and (j) of Clause 4 under the heading of Major Penalties of the 1977 Regulations:

***“4. Penalties:***

***The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons:-***

***Minor Penalties:***

***(a) ... ..***

***(b) ... ..***

***(c) ... ..***

***(d) ... ..***

***(e) ... ..***

***Major Penalties:***

***(f) ... ..***

***(g) ... ..***

***(h) ... ..***

***(i) Removal from service which shall not be a disqualification for future employment;***



***(j) Dismissal which shall ordinarily be a disqualification for future employment.”***

**8** Admittedly, petitioner has been convicted by the trial Court for the offence punishable under Sections 302/201 of the IPC. There is also no dispute on the point that similarly situated co-accused Sanjay Kumar has also been convicted by the trial Court in Sessions Trial No 336 of 2004 for the offence punishable under Sections 304B read with Section 498A of the IPC and he was sentenced by the trial Court to undergo rigorous imprisonment for life and for ten years respectively. There is also no dispute on the point that Sanjay Kumar as well as the present petitioner assailed their above conviction before this Court through separate appeals.

**9** Perusal of the order passed by the Reviewing Authority -cum- Executive Director (Annexure R/3) further shows that the Authority, taking into consideration the fact that conviction of Sanjay Kumar has been stayed by this Court, reinstated his services with the condition that his reinstatement will be subject to final outcome of this Court in the criminal appeal filed by him.

**10** Perusal of the documents annexed with the petition further shows that the petitioner herein also filed an appeal before this Court against the judgment of conviction passed



against him. The order dated 01.02.2023 (Annexure 6) further shows that the conviction of the present petitioner herein has also been stayed by this Court during the pendency of his appeal, i.e., Criminal Appeal (DB) No 207 of 2020. Thus, it is quite clear that conviction of the present petitioner as well as Sanjay Kumar has been stayed by this Court and on the basis of order of stay of conviction passed by this Court, the services of Sanjay Kumar have been reinstated but in the case of the petitioner, the claim has been rejected

11 Learned counsel for the respondents has contended that the major penalty given to the present petitioner has been imposed upon him under sub-clause (j) and the penalty imposed upon Sanjay Kumar is under sub-clause (i). However, the learned counsel for the respondents is unable to point out any of the provisions in the 1977 Regulations which speaks that the person, who has been punished under sub-clause (i) of Clause 4 of the 1977 Regulations be granted the benefit of reinstatement on the ground that his conviction has been stayed by the Court and the person who has been given the penalty under sub-clause (j) of Clause 4 of the 1977 Regulations will not be given the above benefit even after stay of his conviction by the competent Court. Therefore, it is clear that while deciding the claim of the petitioner,



the Reviewing Authority has arbitrarily rejected the claim of the petitioner. In the considered view of this Court, the petitioner also, on the ground of parity, is entitled to get his reinstatement in the services as has been given to Sanjay Kumar.

12 Accordingly, the petition is allowed.

13 The order dated 15.12.2021 (Annexure 5 series) passed by the Executive Director -cum- Appellate Authority, Punjab National Bank and the order dated 02.03.2023 (Annexure 8) passed by the Deputy General Manager are set aside.

14 The respondent-Bank is directed to reinstate the services of the petitioner forthwith with the condition that his reinstatement will be subject to final decision of this Court in the criminal appeal filed by him.

15 It is made clear that the petitioner will not be entitled for any benefit for the period from the date of his removal till the date of his reinstatement/joining.

(Arvind Singh Chandel, J)

M.E.H./-

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