

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.353 of 2024

In
Civil Writ Jurisdiction Case No.10725 of 2010

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1. Uttar Bihar Gramin Bank Kalambagh Chowk, Muzaffarpur, through its Chairman.
 2. The Chairman, Uttar Bihar Gramin Bank, Kalambagh, Chowk, Muzaffarpur.
 3. The General Manager-cum- Disciplinary Authority, Uttar Bihar Gramin Bank, Kalambagh, Chowk, Muzaffarpur.
 4. The Appellate Authority of the Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur.
 5. The Senior Manager of the Uttar Bihar Gramin Bank, Biraul, P.S.- Benipur, District- Darbhanga.
 6. Sri Ramchandra Choudhary, the Enquiry Authority-cum- Officer, Controlling Officer of the Uttar Bihar Gramin Bank (Hereinafter referred to as The Gramin Bank) Darbhanga.

... .. Appellants

Versus

Bhavendra Jha Son of Late Shobhakant Jha Resident of Village Bahuarwa,
Police Station- Manigachhi, District- Darbhanga.

... .. Respondent

Appearance :

For the Appellants	:	Mr. Prabhakar Jha, Advocate
For the Respondent	:	Mr. Kripa Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 28-07-2025

The present *intra* court appeal is directed against the order dated 12.01.2024 passed by the learned Single Judge in C.W.J.C. No. 10725 of 2010, whereby the said writ petition filed by the respondent/writ petitioner was allowed.



2. As per the facts on record, the respondent/writ petitioner was appointed as Clerk-cum-Cashier in Gramin Bank. Subsequently, he was transferred to another Branch. He went on leave and returned on 20.10.2004 and received a key of safe of Bank as per regulations of the Bank. In the night of 20.10.2004, a theft occurred of Rs. 15,20,849.35/- from the safe of Bank. On 21.10.2004, the Senior Branch Manager reported to the Biraul Police Station regarding the same. However, no formal F.I.R. was registered, but subsequently, the Officer-in-Charge of Biraul Police Station came to the Branch and registered an F.I.R. on the basis of his self-statement which was numbered as Biraul P.S. Case No. 110 of 2004. In connection with the theft incident, the respondent was sent to jail and subsequently, Chairman of Mithila Kshetriya Gramin Bank issued an office order on 05.11.2004, regarding the suspension of respondent under Rules 17 & 19 of Employees Service Regulation, 2000 of Gramin Bank. The General Manager issued memo on 06.01.2008 by which the respondent was asked to give his explanation on charges levelled against him. On 09.11.2006, the respondent was granted bail vide Cr. Misc. No. 17501 of 2006 on the ground that the Branch Manager, who had access to one of the keys, was not even interrogated and the respondent, who had one of the two keys, was



detained in custody. On 23.11.2007, the respondent made a representation to the General Manager denying all the allegations levelled against him, but it was not taken into consideration. The Disciplinary Authority, vide letter no. 626 dated 29.12.2007, issued a charge-sheet against the respondent, wherein memo of charge was annexed which states that the respondent fraudulently took another key of safe. On 17.01.2008, respondent made reply, denying the charges levelled against him stating that the second key of safe was with Bank Manager and the respondent had nothing to do with the second key of safe. The Disciplinary Authority issued letter No. 538 dated 19.02.2008, stating that departmental proceedings was to be initiated with regard to the theft incident, wherein Ram Chandra Chaudhary and Shri Jai Narayan Pathak was appointed as Representing Officers of the Bank. The Departmental Proceeding was initiated on 24.03.2008 and got concluded on 18.07.2008. During enquiry, on 10.06.2008, Defence witness-1, Shri Radhey Shyam Paswan (Clerk-cum-Cashier), was examined and cross-examined and he stated that any transaction of keys of safe is made through key register in accordance with the Rules of Bank and, without this procedure, key cannot be handed over or taken over by any Officer or staff of Bank. Further, during enquiry, Management Exhibit No.-2 was



produced which mentioned that 2nd key of the safe was with Bank Manager, namely, Moda Nand Jha. Further, the Management in Exhibit-2 mentioned that the respondent was on leave from 15th to 19th October, 2002 and both keys were under the custody of Bank Manager. The Senior Manager filed an application before the Superintendent of Police, Dharbhanga complaining that the F.I.R. was not instituted by Officer-in-Charge, Biraul Police Station on the basis of his statement. Further, the then Area Manager of the Gramin Bank also filed a protest petition in the Court of Sub-Divisional Judicial Magistrate, Biraul, Benipur mentioning that the Police Officers have misdirected the investigation in case of theft. After enquiry was concluded, the respondent had to file his written statement, which was filed by the respondent on 09.08.2008, wherein the respondent denied all the allegations made against him with the help of Management Exhibit No. 2 and statement of witnesses. On 18.12.2008, the Disciplinary Authority issued letter No. 381 alongwith enquiry report which mentioned that the respondent was directed to submit his response with regard to the findings of the Enquiry Report within 15 days. The respondent filed his representation on 12.02.2009. Further, on 06.03.2009, Disciplinary Authority, vide letter no. 542, issued an order of punishment that the respondent shall be removed from Bank



service and he shall not be entitled to salary/pay and allowances for the period of suspension except what is already paid to him. On 26.03.2009, the respondent filed representation requesting the appellant to re- consider his case on the basis of documents brought on record by him. On 04.04.2009 the Disciplinary Authority issued an order (without considering any explanation or representation of the respondent) that the respondent is already removed from the Bank service and shall not be entitled to salary and allowance for the suspended period except what is already paid to him. Further, on 14.05.2009, the respondent preferred an appeal before the Appellate authority and the case was decided to be heard on 26.09.2009. The respondent appeared before the appellate authority with all the documents and, ultimately on 12.05.2010 the appeal was rejected and the order of Disciplinary Authority was upheld.

3. The learned Single Judge, after considering the rival contention of the parties and facts of the case, allowed the writ petition and directed the appellant-Bank to regulate the service of the respondent/writ petitioner from the date of removal from service and extend service and monetary benefits to him within a period of four months from date of receipt of the judgment.



4. Learned counsel appearing on behalf of the appellants has challenged the judgment and order dated 12.01.2024 passed in C.W.J.C. No. 10725 of 2010 passed by the learned Single Judge of this Court. Further, it has been submitted by learned counsel for the appellants that the learned Single Judge has failed to consider the fact that respondent was Clerk-cum-Cashier of Bank and custodian of one of the keys and that the respondent, after returning from leave, received the safe key No.1 from the Branch Manager and safe key No. 2 was unauthorizedly taken by the respondent and, on the same night with the help of both keys, the amount was stolen from safe. The learned Single Judge has failed to notice that altogether both keys of safe was with the respondent and that safe was not broken but it was opened with the help of both keys as it is to be noted here that both keys are needed to operate safe, not only one.

5. We have heard the learned counsel for the appellant and have also gone through the impugned order passed by the learned Single Judge. The only question that arises for consideration by this Court is whether the Departmental Enquiry conducted in this case is in contravention to Regulation-41 of Uttar Bihar Gramin Bank (Officers and Employers) Service Regulation, 2008 and vitiates the enquiry proceeding conducted in this case.



6. It is settled law, in pursuant to Uttar Bihar Gramin Bank (Officers and Employees) Service Regulation, 2008, that Regulation-41 concerning common inquiries allows for a single, unified disciplinary proceeding when multiple Officers or employees are involved in the same incident. This regulation ensures a consistent approach by designating a single competent authority for the inquiry, streamlining the process and potentially avoiding conflicting findings. This regulation is to be invoked when two or more employees or Officers, even from different grades, are jointly involved in an incident that necessitates disciplinary action. The Regulation-41 reads as under:-

“41. Common Enquiry:

Notwithstanding anything contained in these Regulations, if two officers in different grades or an officer and an employee are involved jointly in an incident and disciplinary proceedings are sought to be instituted against both of them and the Chairman is of the opinion that having regard to the facts and circumstances of the case, the Competent Authority in respect of both the officer and employee should be the same, the Chairman may direct the Competent Authority in respect of the Officer shall be the Competent Authority in respect of both the officer and employee involved and a common enquiry shall be held into the charges against both of them and the delegation of power to enquire under Regulation 40 and the procedure, with the exception of the final order shall be in favour of the same enquiry officer.”

7. In pursuant to facts of the case, it is evident that the appellants had initiated individual enquiry and not common enquiry without giving any valid reason for the same. So, the



proceeding of individual enquiry vitiates the enquiry proceeding itself as common enquiry is mandated by Regulation-41 of Bank Service Regulation in cases where one or more employees are involved.

8. Therefore, in view of the aforesaid facts, finding no merit in the present appeal, the same, is accordingly dismissed.

9. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Ramesh Chand Malviya, J)

Sachin/-

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