

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23564 of 2012

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Bhola Mochi Son of Late Asharfi Mochi Resident of Village Hathauri, P.S.-
Hayaghat, District.- Darbhanga

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate
For the Respondent/s : Mr. Prabhakar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 23-12-2025

1. Heard learned counsel for the petitioner and learned counsel for the Bank.

2. The petitioner has filed the instant application for the following reliefs :-

“a) For grant of an appropriate writ for quashing the order no. HO/DAD/04/11-12/No.962 dated 7/1/2012 passed by the Disciplinary Authority cum General Manager awarding the punishment of dismissal from service to the petitioner in terms of Regulation 39 (2) (b) (vi) of Uttar Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010 (Annexure 6).



b) For grant of an appropriate writ for quashing order no. HO/DAD/05/12-13/112 dated 11/5/2012 passed by the Appellate Authority cum Chairman Uttar Bihar Gramin Bank, Head Office- Kalambagh Chowk, Muzaffarpur disposing of the appeal of the petitioner by upholding the order of the disciplinary authority dismissing the petitioner from service (Annexure 8).

c) For grant of an appropriate writ for a direction to the respondents to reinstate the petitioner on the post held by him with effect from the date of dismissal along with all the back wages payable to him.”

3. The case of the petitioner in brief is that while posted as an Office Assistant of Bagharsi Branch and Hathauri Branch of the Uttar Bihar Gramin Bank between the years 1997 and 2006, the petitioner was proceeded against in a departmental proceeding. A memo of charge was served on him on 14.5.2010 asking him to file his reply within ten days. The petitioner filed his reply on 30.6.2011. On conclusion of the enquiry, the Enquiry Officer submitted his report on 1.11.2011 to which the petitioner filed his response on 3.12.2011.

4. The petitioner was served with a proposed order dated 26.12.2011 issued under the signature of the Disciplinary Authority-cum-General Manager asking him to reply if he has



anything to submit regarding the proposed punishment of dismissal from service in terms of the Regulation of the Bank. The petitioner submitted his reply on 3.1.2012, on which the respondents issued an order dated 7.1.2012 under the signature of the Disciplinary Authority-cum-General Manager awarding the punishment of dismissal from service. The appeal preferred by the petitioner was rejected vide order dated 11.5.2012 passed by the Appellate Authority.

5. It is against both these orders i.e. the order of punishment dated 7.1.2012 and the order dated 11.5.2012 rejecting the appeal preferred by the petitioner that the instant application has been preferred for the reliefs as stated herein above.

6. It is submitted by learned counsel for the petitioner that the enquiry was not conducted as per Regulation 43(a) of the Service Regulations for the reason that the same should have been sent to the Central Vigilance Commission. There was violation of the principles of natural justice and no witness was examined in course of enquiry. As such neither any document was proved nor marked exhibit. In reference to the order of dismissal, learned counsel further submitted that the Disciplinary Authority has taken into consideration the past



record of the petitioner.

7. The application is opposed by learned counsel appearing for the Bank who submits that there has been no violation of the principles of natural justice nor any provisions of the Regulation. The documents exhibited were seen both by the petitioner as also the Enquiry Officer. They were marked exhibit and only thereafter they were considered in the enquiry report. With respect to the reference to the past record of the petitioner, it is submitted that though the same find mentions in the order impugned, however the same has not been taken into consideration in passing the order of dismissal.

8. Heard learned counsel for the parties and perused the material on record.

9. The relevant facts in brief are that the petitioner who was working in the capacity of an Office Assistant in the Bank was served with a memo of charge asking him to file his response within ten days.

10. The charge against the petitioner was that while working as a Clerk-cum-Cashier at Branch Bagharsi, he received amounts from different customers for deposit in their accounts, entered the amounts in their ledger of the concerned account but did not account for the amounts in the Bank's cash



and misappropriated the same. Similar were the allegations against the petitioner by which he is said to have committed fraud of Rs.25,000/- in the account of one Prabhu Sah. The petitioner submitted his reply on 30.6.2011.

11. The enquiry proceeded and the Conducting Officer submitted the enquiry report on 1.11.2011, wherein he found all the charges levelled against the petitioner to have been proved.

12. On receipt of a copy of the enquiry report, the petitioner submitted his response on 3.12.2011. On 26.12.2011, the petitioner received a 'proposed order' from the Disciplinary Authority-cum-General Manager stating therein that for both the charges which were found to be proved, the order of punishment proposed to be passed against the petitioner was of dismissal from service and anything that the petitioner had to submit regarding the proposed punishment, he may do so in writing on or before 3.1.2012. The petitioner submitted his response.

13. The respondents came out with an order dated 7.1.2012 dismissing the petitioner from service.

14. The appeal preferred by the petitioner was rejected vide order dated 11.5.2012 passed by the Appellate Authority.

15. On perusal of a copy of the enquiry report dated



1.11.2011 brought on record as Annexure-A to the counter affidavit filed on behalf of the respondents, it transpires that the same mentions about the charge levelled against the petitioner and the documents on the basis of which the same, in the opinion of the Enquiry Officer, have been proved. However, it would be relevant to take note of the fact that not a single witness has been examined on behalf of the Management and thus none of the documents relied on by the Enquiry Officer or the contents thereof have either been proved or marked an exhibit. Thus, in the opinion of the Court, it is a case of no evidence. The application is fit to be allowed on this point alone.

16. At this stage, it would be relevant to refer to the judgment in the case of **Roop Singh Negi vs. Punjab National Bank & Ors.; (2009) 2 SCC 570** wherein the Hon'ble Supreme Court held as follows :-

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to



be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

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23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied



upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

17. Further a Division Bench of this Court in the case of **Devendra Prasad vs. The State of Bihar & Ors.** (judgment dated 19.10.2023 passed in LPA no.1302 of 2017), following **Roop Singh Negi** (*supra*) observed as follows :-

“7. As has been held in Roop Singh Negi v. Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by



itself without actual proof of facts stated therein. The Hon'ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof.”

18. Having heard learned counsel for the parties and having perused the material on record, especially the contents of the enquiry report, the Court finds that none of the charges levelled against the petitioner have been proved. Charges



levelled were required to be proved based on the admissible evidence brought on record by the Management by way of oral or documentary evidence and the same was required to be proved by leading evidence of the witnesses. The Enquiry Officer could not have by himself taken into consideration the documents sought to be relied upon against the petitioner.

19. In view of the facts and circumstances stated herein above, the order of punishment passed against the petitioner as also the Appellate order are both non-sustainable.

20. The order dated 7.1.2012 passed by the Disciplinary Authority-cum-General Manager as also the order dated 11.5.2012 passed by the Appellate Authority-cum-Chairman of the Bank are both set aside.

21. The petitioner is directed to be reinstated back in service with all consequential benefits which shall be paid to the petitioner within a period of three months.

22. The writ application stands allowed.

(Partha Sarthy, J)

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