IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14428 of 2013

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Ramjee Prasad Gupta S/O Late Mahabir Sahu Resident Of Mahatama Gandhi Nagar, Katira, Ara, P.S. Nawada, District - Bhojpur

... ... Petitioner/s

Versus

1. The State Bank Of India through Chief General Manager, State Bank of India, Local Head Office West of Gandhi Maidan, Patna.
2. The Chief General Manager, State Bank Of India, Local Head Office West Gandhi Maidan, Patna
3. The General Manager, State Bank Of India, Local Head Office West Of Gandhi Maidan, Patna - 01
4. The Deputy General Manager O and C S.B.I. Administrative Office, Region V, J.C. Road, Patna 1
5. The Regional Manager, S.B.I. Regional Business Office,, Golachhani, Sasaram, Rohtas
6. The Branch Manager, S.B.I. Amjhore, Rohtas

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harishankar Roy, Advocate
For the SBI	:	Mr. Rakesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 07-04-2025

Heard Learned Counsel for the petitioner and Learned Counsel for the State Bank of India.

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

> *"I. For quashing of the order bearing Ref. No. VIG/Gen/SS/114 dated 04.07.2011, and served upon petitioner through letter No.*

VIG/RBO/SS/51 dated 04.07.2011 whereby and where under petitioner has been awarded punishment of dismissal from his Bank service U/s 67 (1) of State Bank of India Officers Service Rule and the period of suspension has been treated not on duty after completion of departmental proceeding after petitioner's retirement.

II. For quashing of the order dated 25.02.2012 served upon petitioner through letter No.A&R/HR/4379 dated 29.02.2012 whereby and where under the appeal filed by petitioner has been rejected saying that the punishment awarded against petitioner is appropriate to this lapses.

III. For issuance of an appropriate writ, order, direction that the departmental proceeding continued against petitioner after his retirement is without any order/decision of the competent authority required under law.

IV. For issuance of an appropriate writ, order, direction that the order dismissing the petitioner from his service after his retirement is without jurisdiction.

V. For directing the respondents to make all the full salary of the petitioner for the period of his suspension after deducting the amount paid during suspension and all other admissible dues not paid to the *petitioner even after his retirement.*

VI. For any other relief or reliefs for which the petitioner is found entitled."

3. Learned Counsel for the petitioner submits that the petitioner passed his B.Sc. (Agriculture) Examination in the year 1970 from Ranchi University and was appointed against the post of Agriculture Assistant in State Bank of India and joined the said post on 09.12.1974. On 01.04.1983, petitioner was promoted to the post of Rural Development Officer in pay scale-1 and he remained in the said pay scale-1 till his retirement on 28.02.2011. Counsel submits that the petitioner was posted as Support Officer at Amjhore in the District of Rohtas from January 2010 to 04.06.2010 and petitioner was put under suspension on 04.06.2010 issued under the signature of Deputy General Manager (I & C). The Disciplinary Authority has alleged that petitioner has defrauded the Bank by crediting his own account as well as account of his outside accomplices by unauthorized debit to Branch charges account and the Headquarter of the petitioner was fixed at Latehar in the State of Jharkhand. Counsel submits that there is no adverse entry in the service record of the petitioner since his initial date of appointment. Counsel submits that *vide* letter dated 18.11.2010,

article of charge was served upon the petitioner based on three allegations and time was granted to him to file the explanation. Counsel further submits that with the same allegation, criminal case has also been instituted against the petitioner bearing Amjhore P.S. Case No. 119 of 2010. Counsel submits that the disciplinary proceeding has been initiated against the petitioner and in the disciplinary proceeding, the petitioner has submitted his defence. But, the Enquiry Officer found all charges proved against him and prior to conclusion of the departmental proceeding, petitioner has superannuated on 28.02.2011. Therefore, the General Manager and Appointing Authority of the petitioner exercised power under Rule 19(3) of the State Bank of India Officers Service Rules (hereinafter referred to as 'SBIOS Rules') by which the departmental proceeding initiated against the petitioner was ordered to be continued and completed even after his date of retirement.

4. Learned Counsel for the petitioner further submits that a decision has been taken under Rule 19(3) of the SBIOS Rules, but the said order has not been communicated to the petitioner and it has not been served. Counsel submits that petitioner has requested the respondent authority for inspection of relevant documents for filing effective defence in reply to the

letters referred in the application. But, the respondents never allowed the petitioner to inspect the documents. Upon proving of article of charge against the petitioner, the petitioner has placed two certificates which are very much relevant for his defence i.e. monthly certificate of the Branch Manager, SBI, Amjhore Branch for the months of March 2010, April 2010 and May 2010 by which it become clear there is no irregularity in respect of business of the branch. This document has not been considered at all by the respondent authorities. Counsel also submits that the petitioner was sanctioned limit of loan upto Rs. 4,50,000/- (Rupees Four Lakh Fifty Thousand) through his overdraft account and outstanding was Rs. 4,74,827.44 (Rupees Four Lakhs Seventy Four Thousand Eight Hundred Twenty Seven and Fourty Four *paise*). In-spite of that, petitioner debited Rs.1,00,000/- (Rupees One Lakh) in his overdraft account and credited in the account of his son. Counsel submits that petitioner's son was seriously ill during the period, therefore, the petitioner requested the competent authority on telephone to grant him permission to operate his overdraft account by debit of Rs.1,00,000/- (Rupees One Lakh) under the facts stated above which was refused by the competent authority on telephone, but petitioner got no alternative to arrange funds to save the life of his son and he debited Rs.1,00,000/- (Rupees One Lakh) from his overdraft account to his son's account. Thereafter, within a week, petitioner regularized his overdraft account but depositing the amount and no loss was caused to the Bank. Counsel further submits that the prosecution examined no witness to prove the documents and the procedure of departmental proceeding has not been followed and without following the same, concluded the enquiry and report was submitted by the Enquiry Officer. Thereafter, the Administrative Authority directed the petitioner to appear before him for personal hearing to make submissions as to why proposed penalty should not be imposed. Petitioner appeared personally before the Controlling Authority and two questions were asked from the petitioner and petitioner replied the same as well as submitted his explanation, but, even then, punishment order has been passed dismissing him from service. Thereafter, petitioner preferred appeal, but the appeal was also rejected on 25.02.2012. Counsel further submits that the petitioner thereafter, filed a review petition which was also dismissed.

5. Learned Counsel for the petitioner further submits that departmental proceeding against the petitioner was allowed to continue after petitioner's retirement without

following the guidelines made in this respect. And therefore, the departmental proceeding after retirement was continued without jurisdiction and the enquiry report is bad in law. Counsel submits that the petitioner deserves a sympathetical consideration as the petitioner was heart patient and he was treated through by-pass surgery and petitioner requested the authorities not to transfer him at the place like Amjhore where there was no civil facility. But the petitioner was subject to the harassment of his superior and in continuation of the same, punishment order for dismissal has been passed which was approved in appeal and review. Counsel submits that there is gross violation in passing the order due to the reason that not a single document has been examined and the charges were not proved by virtue of the reasonings, rather, under revisional condition, the Enquiry Officer has passed the order. Counsel further submits that during pendency of the writ petition, petitioner has been acquitted from the criminal case i.e. Amjhore P.S. Case No.119 of 2010 (G.R. Case No.2228 of 2010, Trial No.37 of 2017). Counsel submits that when the basis of the allegation for which the criminal case has been instituted has ended in acquittal, then in that case, the petitioner should be treated and exonerated from all charges of the departmental proceeding. Counsel therefore, conclusively submits that the Original order, Appellate order and the Revisional order, all are fit to be set aside.

6. Learned Counsel appearing on behalf of State Bank of India on the other hand submits that in the present departmental proceeding, due process of law has been followed and every opportunity has been granted to the petitioner to defend himself and order has also been in proportionate of his involvement in the wrong done by him. Counsel submits that the petitioner is Officer in the Bank and high standard of honesty and integrity has to be maintained by him as he has to operate the public money. But there is absolute lacking in the present case. Counsel further submits that the Enquiry Officer at the time of conducting the enquiry has meticulously examined all 23 debit/credit entries made by the petitioner wrongly by virtue of transferring the money in his account or in the account of others without use of any vouchers and bills. Counsel submits that the petitioner has accepted his mistake before the Enquiry Officer and wanted to make good for the loss incurred by the Bank and it has also been accepted by him that he was in need of funds to fulfill his families obligation. Counsel submits that the petitioner has debited 23 times charges account and credited

the proceeds to five different accounts and subsequently, credited Rs.1,00,000/- to the account of his son without permission, which he has accepted before the Enquiry Officer and by virtue of his acceptance, the Enquiry Officer has found all allegations proved against him based on the said findings of the Enquiry Officer and also upon considering that petitioner has retired during pendency of the departmental proceeding. Approval has been taken by the Managing Director to invoke Rule 19(3) of the SBIOS Rules which permits to continue the departmental proceeding even after superannuation/retirement.

7. Learned Counsel appearing on behalf of State Bank of India further submits that there is absolutely no irregularity or violation of natural justice in the present case. In this view of the matter, Counsel relied on two judgments i.e. ***Baljinder Pal Kaur Vs. State of Punjab & Ors.*** reported in ***(2016) 1 SCC 671*** as well as ***Deputy General Manager & Ors. Vs. Ajai Kumar Srivastava*** reported in ***(2021) 2 SCC 612.*** Counsel submits that the petitioner has admittedly acquitted from the criminal case, but the criminal proceeding and departmental proceeding are two different aspects of the matter. The departmental proceeding has to be conducted by virtue of the mis-conduct of the petitioner, but the criminal proceeding

has been conducted for the criminal wrong done by him. Counsel further submits that this acquittal is not acquittal by contest, rather, it is an acquittal by hostile and such type of acquittal cannot be treated to be acquittal on merit. Counsel further submits that in case of ***Union of India & Anr. Vs. Bihari Lal Sidhana*** reported in ***(1997) 4 SCC 385***, the Hon'ble Supreme Court of India has pleased to observe that '*it is true that the respondent was acquitted by the criminal court but acquittal does not automatically gave him the right to be reinstated into the service*.' Counsel submits that in this background that the petitioner's acquittal is not on merit, rather, due to the hostility of the witnesses and the standard of proof in a criminal case and departmental proceeding are different. In criminal case, the proof is beyond all reasonable doubt. But, in a departmental proceeding, it is the preponderance of probabilities upto certain standard are required. Hence, according to him, there is no need of any interference in the original order, appellate order as well as revisional order passed by the authorities, and accordingly, the present writ petition is fit to be dismissed.

8. After hearing the parties as well as going through the pleadings, it transpires to this Court particularly upon

perusal of the enquiry report where the Enquiry Officer has discussed the defence taken by the petitioner that the petitioner has accepted his wrong on all the allegations. It also transpires to this Court that in the enquiry report, discussion of all 23 cheques which has been debited either in the account of petitioner or his relative/friends have been minutely discussed and the petitioner has relied only on a certificate issued by the Branch Manager. It is well known that in every branch, the money has been credited from one account to another account only by virtue of vouchers or bills. Here, the allegation that without using vouchers or bills, the money has been transferred either in the account of the petitioner being the custodian manager as well as to his relative, is really a dishonest exercise.

9. On the second charge about which the petitioner accepts that due to compelling circumstances and illness of is son, he was in acute need of money, and therefore, he transferred the money to the account of his son without permission from the superiors is also goes against him. So far as applicability of Rule 19(3) of the SBIOS Rules are concerned, the rule permits where power has been vested in the Managing Director, the said letter is annexed in the petition also. Therefore, even after retirement, continuation of the

departmental proceeding is also in accordance with law.

10. This Court upon going through the judgment of ***Baljinder Pal Kaur Vs. State of Punjab & Ors. (supra)*** whose paragraph nos.10 & 12 are very much relevant which states as follows:-

> *"10. In Commr. of Police v. Mehar Singh, this Court, in para 24, has observed as under : (SCC p. 699)*
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> > *"24. ... While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit."*
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> *12. In Union of India v. Bihari Lal Sidhana, this Court has observed that it is true that the respondent was acquitted by the criminal court but acquittal does not automatically gave him the right to be reinstated into the service."*

As well as the judgment of ***Deputy General Manager & Ors. Vs. Ajai Kumar Srivastava (supra)*** particularly its paragraph no.42 which states as follows:-

> *"42.Before we conclude, we need to emphasise that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24-7-1999 confirmed in departmental appeal by order dated 15-11-1999."*

11. This Court upon going through the aforesaid judgments particularly when Hon'ble Supreme Court of India has pleased to held that in banking business, absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired.

12. In this background, this Court finds that there is lacking of absolute devotion, integrity and honesty in the

present case on behalf of the petitioner. Hence, this Court is not inclined to interfere in the orders passed by the Original Authority, Appellate Authority as well as the Revisional Authority. Accordingly, this writ petition is hereby dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	11/04/2025
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