

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.589 of 2024

In

Civil Writ Jurisdiction Case No.4823 of 2020

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1. The State Bank of India through the Chief General Manager, Local Head Office, Post Box No. 103, West Gandhi Maidan, Patna.
 2. The Chief General Manager (Appellate Authority), State Bank of India, Local Head Office, Post Box No. 103, West Gandhi Maidan, Patna.
 3. The Chief Manager (Domestic Enquiry), State Bank of India, Vigilance Department, Local Head Office, Post Box No. 103, West Gandhi Maidan, Patna.
 4. The General Manager and Appointing Authority, State Bank of India, Vigilance Department, Local Head Office, Post Box No. 103, West Gandhi Maidan, Patna.
 5. The Deputy General Manager (B and O) and Disciplinary Authority, State Bank of India, Zonal Office, Bhawesh Bhawan, Beaston Road, Khanjarpur, Bhagalpur.
 6. The Regional General Manager, State Bank of India, Regional Business Office, Region -IV, Gaya Branch Building (3rd Floor), Gaya.
 7. The Deputy General Manager (Appeal and Review), Department, Corporate Centre, 8th Floor, State Bank Bhawan, Madam Cama Road, Mumbai.
 8. The Chief Manager, State Bank of India, Bodh-Gaya Branch, Bodh- Gaya, District - Gaya.

... .. Appellant/s

Versus

Smt. Sony Daughter of Shri Vinod Kumar Singh, wife of Kumar Gaurav, Resident at House No. 170, A. P. Colony, Gaya, Police Station - Rampur, District - Gaya.

... .. Respondent/s

with

Letters Patent Appeal No. 1158 of 2024

In

Civil Writ Jurisdiction Case No.4823 of 2020

Smt. Sony D/o Shri Vinod Kumar Singh @ Shri Vinod Kumar Sinha, W/o Shri Kumar Gaurav, Resident of House No. - 170, A.P. Colony, Gaya, P.S. - Rampur, District- Gaya.

... .. Appellant/s

Versus

1. The State Bank of India through the Chief General Manager, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
2. The Chief General Manager (Appellate Authority), State Bank of India, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
3. The Chief Manager (Domestic Enquiry), State Bank of India, Vigilance Department, Local Head Office, Post Box No. - 103, West Gandhi Maidan,



Patna.

- 4. The General Manager and Appointing Authority, State Bank of India, Vigilance Department, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
- 5. The Deputy General Manager (B and O) and Disciplinary Authority, State Bank of India, Zonal Office, Bhawesh Bhawan, Beaston Road, Khanjarpur, Bhagalpur.
- 6. The Regional General Manager, State Bank of India, Regional Business Office, Region- IV, Gaya Branch Building, (3rd Floor), Gaya.
- 7. The Deputy General Manager (Appeal and Review) Department Corporate Centre, 8th Floor, State Bank Bhawan, Madam Cama Road, Mumbai.
- 8. The Chief Manager, State Bank of India, Bodh- Gaya Branch, Bodh-Gaya, District- Gaya.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 589 of 2024)

For the Appellant/s : Mr.Sanjiv Kumar, Adv.

For the Respondent/s : Mr.Arvind Kumar Singh, Adv.

(In Letters Patent Appeal No. 1158 of 2024)

For the Appellant/s : Mr.Arvind Kumar Singh, Adv.

For the Respondent/s : Mr.Sanjiv Kumar, Adv.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 31-01-2025

LPA No. 1158/2024

- 1. The learned counsel for the appellant has questioned the order passed by the learned Single Judge giving option to the respondents employer/the State Bank of India to start a fresh proceeding against her for having misled the Bank by getting money under the house-rent head



reimbursed when in fact, the entire claim of the appellant was found to be fictitious.

2. The learned counsel for the appellant presses I.A. No. 1/2024 seeking condonation of delay of 174 days in preferring this memo of appeal.
3. No good ground has been raised in the application for condoning the delay in preferring the appeal.
4. The Interlocutory Application No. 1/2024 is thus dismissed.
5. The appeal (LPA No. 1158 of 2024) also, therefore, fails.

LPA No. 589 of 2024

6. The Employer/State Bank of India is aggrieved by the judgment dated 20.04.2024 passed in CWJC No. 4823 of 2020 whereby the learned Single Judge has set aside the enquiry report as well as the order of dismissal of the sole respondent herein on the ground that the enquiry



report as also the punishment order do not reveal that there was any application of mind with respect to the facts brought forth in the domestic enquiry.

7. The allegation against the respondent is of having furnished a certificate by one Rita Sinha reflecting that she had given her house on rent to the respondent. The respondent got the rent paid by her reimbursed under the house rent allowance. Later, it was found out that the house does not belong to Rita Sinha and that Rita Sinha is a fictitious person.

8. On facts, the learned Single Judge found out that from a reading of the deed brought on record by the respondent, that Rita Sinha was not a fictitious person but she had purchased a flat in the multi-storeyed building in which the mother of the respondent had also purchased a flat. It was wrongly concluded by the appellants/employer that by furnishing such rent certificates as a tenant of



Rita Sinha, the respondent has put the employer to financial loss and has also not acted in violation of the code of conduct of an employee of the State Bank.

9. While taking this factual view, the Court also found gross violation of law in the domestic proceeding which was concluded against the respondent. It was reiterated by the learned Single Judge that a departmental proceeding is a quasi judicial proceeding and the enquiry officer performs a quasi judicial function. The charges levelled against the respondent, from the facts, was not found to have been proved. The conclusions were only inferential. The enquiry officer was required to arrive at a finding upon taking into consideration the materials brought on record by the parties.
10. It was also noted that no witness was examined to prove the documents on which the employer relied upon.



11. Thus considering the dictum in ***Roop Singh Negi v. The Punjab National Bank and Others; (2009) 2 SCC 570, State Bank of India and Ors. v. Narendra Kumar Pandey; (2013) 2 SCC 740, Dr. Noorul Ahad v. the State of Bihar and Others 2008 (3) PLJR***, the enquiry report as well as the punishment orders were set aside.
12. The employer / appellant was asked to accept the joining of the respondent forthwith and a further direction was issued to pay the salary to the respondent for the period for which she was not paid.
13. However, an opportunity was given to the appellant /State Bank of India to proceed with the departmental proceeding against the respondent afresh after taking into account all the necessary facts and carrying such proceedings, if at all initiated, to its logical conclusion by complying with



the provisions contained under the rules for domestic enquiry of the State Bank employees.

14. We have also examined the issue with respect to requirement of examination of witness as pointed out in ***Roop Singh Negi*** (supra). It may not be an inviolable rule in all domestic proceedings for examination of witnesses which would depend on the facts of each case. However, in the present case, it was required that witnesses on behalf of the Bank were to be examined as the allegation is that there is no land lady in existence. This fact had to be proved, which could not have been done in absence of examination of any witness.

15. We have also considered the direction of the learned Single Judge in remanding the matter specifically in the context of judgment in ***Union of India vs. Mohd. Ramzan Khan; (1991) 1 SCC 588*** and the Constitution Bench judgment in ***ECIL vs. B. Karunakar; (1993) 4 SCC 727*** as



also ***the Chairman -cum- Managing Director,
Coal India Ltd. vs. Anant Saha; (2011) 5 SCC***

142. In these cases, it was found by the Supreme Court that a reasonable opportunity to defend the allegation of misconduct levelled and represent against the findings of the inquiry report was not afforded to the delinquent employee, in which case alone, there could be a remand made for the purposes of curing the defect and affording a reasonable opportunity to the delinquent employee.

16. In ***Union of India vs. P. Gunasekaran; 2015 (2) SCC 610***, the Supreme Court has clarified that the High Court under Article 226/227 is entitled to interfere when the finding of fact is based on no evidence. If in every case, where no valid evidence is led at the enquiry proceedings, there is a remand made, it would be offering a premium to the negligence of the management / disciplinary authority and condoning the levity with



which the departmental enquiry was conducted.

17. In the present case, we have found that the enquiry proceeding was vitiated on a technical ground of no witness having been examined but also on the ground of the proceedings and the conclusions being based on a report, namely, non-existence of the land-lady of the delinquent, requiring a fresh enquiry. If the allegations are found to be true, it would constitute a serious offence concerning the code of conduct of an employee. Thus, as contended by the respondent the remand order cannot be faulted with on the score of providing unnecessary opportunity to the Bank to cover up for their lapses in the departmental proceeding.

18. The learned counsel for the appellant / Bank, however, relied on the same authorities to say that even if the matter was remanded for a fresh enquiry, no direction ought to have been issued for



payment of salary to the employee for the period that she had not worked.

19. In ***ECIL vs. B. Karunakar*** (supra) and ***Union of India vs. Y.S. Sadhu (2008) 12 SCC 30***, the Supreme Court has held that where the punishment awarded by the disciplinary authority is quashed by the Court/Tribunal on some technical ground, the authority must be given an opportunity to conduct the enquiry afresh from the stage where it stood before the alleged vulnerability surfaced. However, for the purposes of holding fresh enquiry, the delinquent is to be reinstated and could be put under suspension. The question of back wages etc., is to be determined by the disciplinary authority in accordance with law after the fresh enquiry is concluded.

20. In the present case, the facts are absolutely different. It was not merely on technical ground that the inquiry proceedings was quashed but on factual



aspects as well which reflected non application of mind to the evidence brought forth.

21. The issue of entitlement of back-wages has been considered judicially several times. The power of payment of back-wages though remains discretionary but the decision to grant back-wages or to pay salary for the period that the delinquent did not work because of the termination order which ultimately was quashed, is to be exercised by the Courts/Tribunals keeping in view the facts in their entirety as no straightjacket formula can be evolved, nor a rule of universal application could be laid for such cases.

22. The factual scenario of this case and the principles of justice, equity and good conscience appear to have been kept in view by the learned Single Judge in directing for reinstatement of respondent in service and payment of her salary forthwith.



23. No rigid or mechanical but flexible and realistic approach has to be adopted in such cases. When the learned Single Judge found that the entire allegation was premised on an unsubstantiated allegation, there was every justification for directing for payment of salary to the reinstated employee/respondent.

24. We find no good reason to interfere with the judgment of the learned Single Judge.

25. The appeal is dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

sunilkumar/-

AFR/NAFR	NAFR
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