

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1946 of 2021

=====

Ajay Kumar Sinha, S/o Late Kamleshwar Prasad, R/o Jahnvee, House NO. 122, Magistrate Colony, Road No. -4, Near Shyamal Hospital, Ashiana Nagar, P.S.-Rajeev Nagar, Ashiananagar Patna, Bihar-800025.

... .. Petitioner/s

Versus

1. The Punjab National Bank through its Chairman having Head Office at 7, Bhikhaji Camaji Place, New Delhi-110066.
2. The Executive Director cum Appellate Authority, Punjab National Bank, HRM Division, having Head Office at Plot No. 4, Sector-10, Dwarka, New Delhi-110075.
3. The General Manager, Punjab National Bank, HRM Division, Plot No. 4, Sector-10, Dwarka, New Delhi-110075.
4. The Deputy General Manager, Punjab National Bank, Bihar (Zone), Zonal Office, Patna.
5. The Zonal Manager, Disciplinary Authority, Zonal Office, Patna.
6. The Chief Manager, Punjab National Bank, Usraon, District-Aarah.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Aryan Sinha, Advocate
For the P.N.B.	:	Mr. Mrityunjay Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 17-06-2025

Heard Mr. Aryan Kumar Sinha, learned Advocate for the petitioner and Mr. Mrityunjay Kumar, learned Advocate for the Punjab National Bank.

2. The challenge in the present writ petition is made to the order dated 27.07.2018 passed by the respondent no. 2 (Executive Director cum Appellate Authority) whereby and whereunder the departmental appeal preferred by the petitioner came to be rejected by affirming the order dated 30.12.2017 passed by the Zonal Manager cum Disciplinary Authority by



which the petitioner was inflicted with the major penalty of reduction of salary to four lower stages in the time scale of pay and further the petitioner would not earn increment of pay during the period of such reduction. It is also directed that the period in which the petitioner had remained suspended shall not be treated as period spent on duty and he shall only be entitled to get subsistence allowance for the said period. The original order of punishment was put to challenge by filing an interlocutory application bearing I.A. No. 01 of 2022 in the present writ petition.

3. The facts of the case led to the filing of the present writ petition are in narrow compass. While the petitioner was serving as Senior Manager, Branch Office - SSI, Patna, he was subjected to a departmental proceeding after serving a memo of charge under Regulation 6 of Punjab National Bank Officer Employees' (Discipline & Appeal) Regulation 1977 with respect to certain irregularities. It is alleged that while the petitioner was working as Senior Manager at Branch Office – Usraon under Arrah from 18.06.2012 to 30.04.2014 had abused his official position for undue pecuniary advantage for himself by corrupt and illegal means and thereby tarnished the image of the bank.

4. On receipt of show cause notice, the petitioner



immediately submitted his reply and prayed for exoneration of all the charges. On being dissatisfied, the respondent no. 5 took a decision to hold a departmental enquiry and accordingly the Enquiry Officer as well as the Presenting Officer were appointed. The petitioner ensured his presence before the Enquiry Officer and submitted a detailed written statement. A detailed enquiry was conducted and finally the petitioner was exonerated from the charges. The finding returned by the Enquiry Officer, however, was not accepted; the Disciplinary Authority proceeded further and inflicted the subjected punishment. Aggrieved, the petitioner preferred appeal, which also came to be rejected.

5. Taking this Court through the memo of charge and the enquiry report, learned Advocate for the petitioner primarily contended that the list of document on the basis of which the charges was required to be sustained, was nothing but only copy of the news article published in the daily newspapers. The Enquiry Officer during the enquiry has returned specific finding that the management has failed to prove the charges levelled against the delinquent. The written brief of the Presenting Officer was found to be full of contradiction against his deposition and based upon the paper cutting only, the charges



have been tried to be proved. The Enquiry Officer has specifically held that the Presenting Officer failed to bring anything on record that Charge Officer has abused his position and tarnished the image of the bank. It was also observed that the officer cannot be held guilty on the basis of FIR and newspaper report. Nothing is brought during the course of enquiry that Charge Officer was found guilty in Court of law, merely because the case is pending before CBI Court, Charge Officer cannot be held guilty.

6. Learned Advocate for the petitioner having taken this Court through the enquiry report has further contended that notwithstanding the petitioner exonerated from the charges, the Disciplinary Authority without serving a second show-cause notice and much less without giving a note of disagreement to the findings of the enquiry officer, which is *sine-qua-non*, passed the impugned order of punishment.

7. Once the petitioner was exonerated from all the charges, in a full-fledged enquiry, in no circumstances, any punishment could have been inflicted upon the petitioner without giving any finding of difference to the opinion of the Enquiry Officer. To support the aforesaid contention heavy reliance has been placed on a decision rendered by the Apex



Court in the case of *Punjab National Bank vs. Kunj Behari Misra, (1998) 7 SCC 84*. It is further contended that the Appellate Authority also failed to exercise his jurisdiction and did not discuss the grounds and submission raised in the memo of appeal. The appellate order is also perfunctory passed in a mechanical manner.

8. While concluding the submission Mr. Aryan Kumar Sinha, learned Advocate for the petitioner has also apprised this Court that so far the enquiry by the Central Bureau of Investigation led to initiation of a judicial proceeding is concerned, the petitioner has also been acquitted from all the charges vide judgment dated 28.03.2025 by the Court of learned Special Judge, CBI-I, Patna.

9. Refuting the aforesaid contention Mr. Mrityunjay Kumar, learned Advocate for the Bank has submitted that the charges levelled against the petitioner was serious in nature and the Disciplinary Authority on being found that on account of institution of the FIR by the Central Bureau of Investigation and the petitioner was remanded in judicial custody, the reputation of the bank got tarnished and thus, the charges to that extent of tarnishing of the reputation stands proved, based upon which the subjected punishment has been inflicted. He tried to impress



upon this Court that there is no infirmities in the order passed by the Disciplinary Authority as well as Appellate Authority. However, he fairly contended that if there is some technical defect, the matter can be relegated to the authorities concerned to re-examine the same in accordance with law.

10. Given anxious considerations to the submissions advanced by learned Advocate for the respective parties, this Court is of the opinion that the facts are admitted, atleast to the extent in the manner in which the Departmental Proceeding proceeded and inflicted with the subjected punishment. It is the admitted position that the Enquiry Officer on being found that save and accept the paper cuttings of some of the newspapers, there were no materials available on record to sustain the charges and, in fact, the Presenting Officer failed to prove the charges by documentary or the oral evidence, which led to exoneration of the petitioner. The law in this regard is well settled that whenever the Disciplinary Authority disagrees with the Enquiry Authority on any article of charge, then before it record its own finding on such charge, it must record its tentative reason for such disagreement and give to the delinquent officer an opportunity to represent before it to record its finding.



11. This is the specific contention of the petitioner that neither the Disciplinary Authority has recorded its tentative reason for such disagreement nor the petitioner was offered any opportunity to represent the Disciplinary Authority before recording the order of punishment. Though notice alongwith enquiry report has been duly served upon the petitioner through the speed post, the copy of which is marked as Annexure 9 to the writ petition. Even that notice does not talk about the disagreement with the finding of the enquiry report. This is a settled principle of law as ruled by the Apex Court in the case of **Kunj Behari Misra (supra)** wherein the Court held as follows:-

“22. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final



decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”

12. This Court is also not oblivious of the fact that on account of institution of the criminal case at the level of Central Bureau of Investigation, the reputation of the bank got tarnished, is the genesis of the Departmental Proceeding, however, that also does not survive for present in view of the exoneration of the charges of the petitioner from the Court of Special Judge, CBI-I, Patna vide judgment dated 28.03.2025.

13. Time without number it has been reminded that the standard of proving the charges in the Departmental and Judicial Proceeding are based on different yardstick. In a criminal case, the charges are to be proved beyond all its reasonable doubt, whereas in a Departmental Proceeding the preponderance of probabilities is sufficient. However, the case in hand clearly suggest that the Enquiry Officer has exonerated the petitioner on being found there is no material to sustain the charge.

14. Notwithstanding the aforesaid fact, the Disciplinary Authority inflicted the punishment without there being given any finding contrary to the enquiry report or the



opportunity of hearing to the petitioner.

15. In such circumstances, this Court is left with no option but to set aside the impugned order of punishment dated 30.12.2017 as well the appellate order dated 27.07.2018 respectively.

16. The writ petition stands allowed with all the admissible consequential benefits.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.06.2025
Transmission Date	NA

