IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3043 of 2017

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Ganesh Mahto S/o- Late Ram Bilas Mahto, Resident of I.T.I. Road, Adalwari West Hathsarganj, P.S. Town Hajipur, District Vaishali at Hajipur.

... ... Petitioner/s

Versus

1. The Chairman, Uttar Bihar Gramin Bank Head Office, Kalambagh Chowk, Muzaffarpur, Bihar.
2. The General Manager, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur, Bihar.
3. The Chief Manager, Departmental Disciplinary Authority, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur, Bihar.
4. The Regional Manager, Regional Office East, Uttar Bihar Gramin Bank, Muzaffarpur.
5. The Inquiring Authority, Regional Office East, Uttar Bihar Gramin Bank, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Shashi Shekhar Kishore, Advocate
For the Bank	:	Mr.Prabhakar Jha, Advocate
		Mr. Amitesh Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

CAV JUDGMENT

Date : 12-09-2025

Heard learned counsel for the petitioner and learned counsel for the Uttar Bihar Gramin Bank (hereinafter referred to as the respondent-Bank’).

2. The present writ petition has been filed for quashing of the order dated 21.11.2016 passed by respondent no. 1, namely, the Chairman, Uttar Bihar Gramin Bank (appellate authority), as contained in Annexure-8 to

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Interlocutory Application No. 01 of 2022. The further prayer has been made for quashing of the order dated 19.09.2016 passed by respondent no. 3, namely, the Chief Manager-cum-Disciplinary Authority, Uttar Bihar Gramin Bank (as contained in Annexure-1 series to the writ petition).

3. Learned counsel for the petitioner further submits that vide order dated 09.02.2016, the petitioner was placed under suspension with immediate effect alleging that he had not complied with the system procedure. It is further submitted that on 11.02.2016, a charge sheet was issued to the petitioner under the signature of the respondent-disciplinary authority, containing three charges without any list of witnesses or documents. By order dated 22.02.2016, the respondent-disciplinary authority appointed a Presenting Officer to represent the case of the management in support of the charges levelled against the petitioner. Learned counsel also submits that the departmental enquiry was conducted in thirteen dates, but the documents relied upon were supplied to the petitioner only on the respective dates of presentation. The enquiry commenced on 02.03.2016 and concluded on 10.06.2016. The Presenting Officer submitted his written brief to the Enquiry Authority on 04.06.2016, and a copy of the

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same was also provided to the petitioner. It is further submitted that the petitioner filed his written defence before the Enquiry Officer on 10.06.2016. Thereafter, the petitioner was served with a second show cause notice along with a copy of the enquiry report vide Memo No. 165 dated 28.06.2016 (Annexure-P/11 to the supplementary affidavit). In response, the petitioner submitted his reply to the second show cause notice on 05.07.2016 (Annexure-P/12 to the supplementary affidavit).

4. Learned counsel further submits that the Disciplinary Authority has passed final order 19.09.2016 by which the petitioner was awarded the penalty of compulsory retirement under Regulation 39(1)(b)(iii) of the Uttar Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010 (Annexure-1 series). The petitioner thereafter preferred statutory appeal before the Chairman-cum-Appellate Authority on 28.09.2016 (Annexure-7), which was dismissed on 21.11.2016 without due consideration of the petitioner's submissions and without any independent application of mind (Annexure-8 to the Interlocutory Application). Hence, the present writ petition.

5. Learned counsel for the petitioner further submits

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that it is a settled principle of law that a charge sheet in a disciplinary proceeding must be accompanied by a list of witnesses and documents intended to be relied upon to substantiate the charges against the delinquent official. Failure to furnish such details amounts to a violation of the principles of natural justice. In the present case, the charge sheet issued to the petitioner was not accompanied by any list of witnesses or documents. Furthermore, the relevant documents relied upon during the enquiry were not supplied to the petitioner, thereby causing serious prejudice to his defence.

6. Learned counsel for the petitioner further submits that it is a settled proposition of law, as held by the Hon'ble Apex Court in a catena of judgments, that a government servant facing disciplinary proceedings is entitled to a reasonable opportunity to defend himself. Unless the relevant statements, documents, and other materials proposed to be used against him are supplied, he is effectively deprived of the opportunity to prepare his defence, cross-examine witnesses, or point out inconsistencies in the case of the management.

7. In support of his argument, learned counsel for the petitioner has relied upon the judgment rendered in ***Kashinath Dikshita v. Union of India & Ors.***, reported in

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(1986) 3 SCC 229, wherein the Hon'ble Supreme Court held that in departmental proceedings, reasonable opportunity of defence must be afforded to the delinquent. It was further held that denial or refusal to supply copies of statements of witnesses recorded ex parte constitutes a violation of the principles of natural justice, as guaranteed under Article 311(2) of the Constitution of India.

8. By virtue of ratio laid down in the case of ***State of Punjab Vs. Bhagat Ram*** reported in ***(1975) 1 SCC 155***, learned counsel for the petitioner submits that in departmental enquiry refusal to supply statement of witnesses recorded by the Vigilance Department is violation of Article 311(2) of the Constitution of India.

9. Learned counsel for the petitioner submits that in the case of ***State of Uttar Pradesh and Ors Vs. Saroj Kumar Sinha*** reported in ***(2010) 2 SCC 772***, the Hon'ble Supreme Court has pleased to held that action of Inquiry Officer in preparing reports *ex parte* without supplying relevant documents resulted in miscarriage of justice particularly during departmental proceeding.

10. Learned counsel for the petitioner further relied upon the judgement rendered in the case of ***Roop Singh Negi***

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v. State of Punjab reported in ***(2009) 2 SCC 570*** in which it has been held that mere production of documents is not enough rather contents of documentary evidence has to be proved by examining witnesses.

11. Learned counsel for the petitioner further relied upon the judgement rendered in the case of ***Satyendra Singh v. State of Uttar Pradesh*** reported in ***2024 INSC 873*** wherein it has been held that even in an ex parte inquiry, it is sine qua non to record the evidence of the witnesses for proving the charges.

12. Learned counsel further submits that it is also a well-recognized principle of law that findings recorded by a quasi-judicial authority without any legal evidence merely based on *ipse dixit* are invalid. Where there is no evidence adduced to support the charges, the entire disciplinary proceeding is rendered non-est in the eyes of law. In the present case, since the Enquiry Officer's findings were arrived at without examining any witnesses, they are clearly based on no evidence and are, therefore, vitiated. This legal position is supported by the judgments in ***Roop Singh Negi*** **(supra)** and ***Satyendra Singh*** **(supra)**. In the present case, the enquiry stands vitiated due to violation of the principles of natural

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justice, particularly on account of non-supply of the list of witnesses and copies of the documents proposed to be relied upon in support of the articles of charge at the stage of issuance of the charge sheet.

13. Learned counsel for the petitioner also submits that no financial loss to the bank has been shown to have occurred as a result of the petitioner's alleged acts or omissions, which further weakens the justification for imposing any major penalty. It is further submitted that, apart from the procedural irregularities that have fatally vitiated the disciplinary proceedings, no case of misconduct has been legitimately established against the petitioner. Therefore, the imposition of a major penalty, such as compulsory retirement, is not only improper but also grossly disproportionate to the nature of the charges. In the absence of any proven financial loss to the Bank, the penalty imposed is wholly unwarranted and is liable to be set aside.

In this regard, learned counsel for the petitioner has placed reliance on the judgment of this Hon'ble Court rendered in the case of ***Rabindra Nath vs. the Chairman, Uttar Bihar Gramin Bank and Ors.*** reported in ***2017 (2) PLJR*** 634. This judgment of learned single judge has been

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affirmed by this Hon'ble Court in LPA No. 761 of 2017 vide order dated 08.08.2017. Subsequently the bank filed an appeal before the Hon'ble Supreme Court wherein vide order dated 22.11.2018 passed in Civil Appeal No. 11270 of 2018 (Arising out of SLP (C) No. 23062 of 2017), order of this Hon'ble Court has been affirmed. Hence, the present writ petition be allowed by quashing the impugned orders.

14. Learned counsel for the respondent-Bank submits that the petitioner was serving as Branch Manager (Officer Scale-I) at Sonbarsa Branch under Regional Office, Muzaffarpur (East), was placed under suspension vide Memo No. 711 dated 09.02.2016 (Annexure P/9). A charge sheet (No. HO/DAD/08/15-16/713) was issued on 11.02.2016, and departmental proceedings were conducted over 13 sittings from 02.03.2016 to 10.06.2016. The Presenting Officer submitted a written brief on 04.06.2016, and the petitioner filed his written defence on 10.06.2016. During the proceedings, 29 management exhibits, 18 defence exhibits, and 16 defence witnesses were produced. The Enquiry Officer submitted his findings on 24.06.2016, holding all three charges proved. A second show cause notice along with the enquiry report was issued to the petitioner vide Memo No.

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165 dated 28.06.2016 (Annexure P/11), to which the petitioner responded on 05.07.2016. Subsequently, the Disciplinary Authority, vide order dated 19.09.2016 (Memo No. 307), imposed the penalty of compulsory retirement under Regulation 39(1)(b)(iii) of the Uttar Bihar Gramin Bank (Officers & Employees) Service Regulations, 2010, as amended in 2013. The petitioner's appeal was dismissed by the Appellate Authority vide Memo No. 497 dated 21.11.2016.

15. In support of his arguments, learned counsel for the respondent-Bank relied upon several judicial pronouncements. He placed reliance on the judgment rendered in ***Akhilesh Kumar Singh vs. State of Jharkhand and Ors.***, reported in **2008 (2) PLJR (SC) 179**, particularly paragraph 12, wherein it has been held that the quantum of punishment depends upon several factors.

16. Learned counsel further relied upon the judgment in ***Disciplinary Authority-cum-Regional Manager and Ors. vs. Nikunja Bihari Patnaik***, reported in **1996 (9) SCC 69**, where, in paragraph 14, it was held that a bank officer is expected to maintain a higher standard of discipline, and that acting without authority constitutes misconduct in itself. He also cited ***Regional Manager, U.P. SRTC, Etawah***

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and Ors. Vs.. Hoti Lal and Anr. (supra), reported in ***2003 (3) SCC 605***, in which it was held that where a delinquent employee holds a position of trust, honesty and integrity are integral to the role, and any misconduct must be dealt with sternly and not with leniency.

17. Learned counsel further relied on ***Lalit Popli vs. Canara Bank & Ors.***, *reported in* **AIR 2003 SC 1796**, *particularly paragraphs 16 and 17. He also referred to a decision of the Hon'ble Calcutta High Court in* ***W.P. No. 3096 of 2008, titled Pranab Kumar Bhuyan vs. United Bank of India & Ors.***, reported in 2013 SCC Online Cal 17777.

18. Further reliance was placed on ***T.N.C.S. Corporation Ltd. And Ors. vs. K. Meerabai***, reported in **2006 (2) SCC 235**, specifically paragraph 29, which held that loss of confidence is a primary factor, and even if misappropriated or forged amounts are later deposited, such conduct amounts to grave misconduct. Learned counsel also referred to ***Bali Ram Prasad vs. General Manager, Bank of India***, reported in **2019 (1) BLJ 235**, wherein paragraphs 25 to 33 discuss the standard duties and responsibilities of a Branch Manager.

19. Reliance was also placed on ***State Bank of India and Ors. vs. T. J. Paul***, reported in **1999 (4) SCC 759**,

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where the officer had sanctioned loans without adhering to lending norms, which was held to amount to serious misconduct.

20. Learned counsel for the respondent -Bank lastly submits that the punishment was imposed for gross lapses on the part of the petitioner and the same is in accordance with law. Hence, the present writ petitioner is liable to be dismissed.

21. After having heard learned counsel for the parties and upon perusal of the materials available on record, for better appreciation of this case, this Court feels it necessary to deal with the judgements cited by learned counsel for the petitioner. The case of ***Kashinath Dikshita (supra)*** is not applicable in the present case as no witness has been examined in the present case at pre-enquiry stage whereas in the present case the ratio laid down on the fact that witnesses were recorded ex parte at pre-enquiry stage.

22. The ratio laid down in the case of ***Bhagat Ram (supra)*** is also not applicable due to the reason that the factual matrix of this case is that the statement recorded by the Vigilance Department during preliminary enquiry were not supplied. Here in the present case, situation is otherwise

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documents were supplied but on the same day which is not during preliminary enquiry.

23. The ratio laid down in the case of **State of Uttar Pradesh and Ors Vs. Saroj Kumar Sinha (supra)** is not applicable in the present case due to the reason that it is not the case of the petitioner that he has not been provided opportunity of hearing rather he has only contended that on same day documents were provided it is due to this reason ratio of present case is not applicable.

24. The ratio laid down in ***Roop Singh Negi v. Punjab National Bank & Ors. [(2009) 2 SCC 570]*** is based on the specific factual matrix wherein the allegation against the delinquent was that he was involved in stealing a bank draft, and had made a confession to that effect. However, the Hon'ble Supreme Court held that such a confession alone was not sufficient; some corroborative evidence ought to have been brought on record to establish the charge of theft. In the present case, there is no allegation or material on record to suggest that the petitioner had taken or accepted any money in his bank account. Therefore, the allegation of theft, as was present in ***Roop Singh Negi* (supra),** does not arise in the facts of the present case.

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25. This Court also feels it necessary to quote paragraph 14 of the judgement rendered in the case of ***Satyendra Singh vs. the State of Uttar Pradesh*** and Anr. reported in **2024 INSC 873, as under :-**

> **14.** In the case of *Roop Singh Negi*[11], this Court held that mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses. Relevant extract thereof reads as under:—
>
> > “**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

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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.

………..

19. The judgment and decree passed against the respondent in *Narinder Mohan Arya case* [(2006) 4 SCC 713 : 2006 SCC (L&S) 840] had attained finality. In the said suit, the enquiry report in the disciplinary proceeding was considered, the same was held to have been based on no evidence. The appellant therein in the aforementioned situation filed a writ petition questioning the validity of the disciplinary proceeding, the same was dismissed. This Court held that when a crucial finding like forgery was arrived at on evidence which is *non est* in the eye of the law, the civil court would have jurisdiction

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to interfere in the matter. **<u>This Court emphasised that a finding can be arrived at by the enquiry officer if there is some evidence on record</u>. …"**

26. Upon going through the aforesaid judgemnets and hearing the submissions of the parties and upon perusal of the materials on record, particularly the enquiry report, second show cause notice, and the orders passed by the Disciplinary Authority and the Appellate Authority, this Court finds that a full-fledged departmental enquiry was conducted, and adequate opportunity of hearing was afforded to the petitioner. Hence, there is no apparent violation of the principles of natural justice in the procedural aspect of the enquiry.

27. However, this Court is constrained to note with concern the findings recorded in the enquiry report. It is evident that all the witnesses, both in their written and oral statements, have categorically stated that the money in question was deposited into the account of one Umesh Kumar upon their own instructions, and that they duly received the said amount. None of the witnesses made any allegation against the bank officials, including the petitioner, who was functioning as the Branch Manager. Despite this, in the findings on Charge No. 1, the Enquiry Officer held that there was a violation of banking norms. However, the specific norm

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alleged to have been violated has not been identified anywhere in the report. Such vague and unsubstantiated findings cannot be sustained in the eyes of law. As regards Charge No. 2, the Enquiry Officer has himself stated that the transaction in question "needs a decision," indicating the absence of any conclusive finding. Nevertheless, he has proceeded to hold the charge as proved, without any analysis or consideration of the petitioner's reply. This is particularly concerning given that the transaction in question was audited, and no objection was raised by the audit team. Similarly, with respect to Charge No. 3, it is apparent that the petitioner had addressed a letter to the Regional Office and acted in compliance with instructions received from higher authorities. This explanation, offered in the second show cause reply, has been completely ignored by the Enquiry Officer. The most relevant and glaring aspect in the present case is that the disciplinary action has been taken against the petitioner for allegedly committing serious violations of bank norms, but neither the enquiry report nor the orders passed by the Disciplinary Authority or the Appellate Authority specify which particular bank norm(s) was/were violated. This is despite the fact that there was no public complaint, no

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financial loss, and no misappropriation or misuse of funds.

28. This Court is of the considered view that the Enquiry Officer or the Inquiry Authority can hold a charge to be proved only when there is some credible evidence on record to support such a conclusion. In the present case, there is a complete absence of any substantive evidence to sustain the charges levelled against the petitioner. The findings recorded are vague, unsubstantiated, and unsupported by any material on record. Insofar as the judgments relied upon by the respondent-Bank are concerned, they are distinguishable on facts and do not come to the aid of the respondents in the present case. The judgement referred by the respondent -Bank are as follows ; ***Akhilesh Kumar Singh vs. State of Jharkhand and Ors. (supra); Disciplinary Authority-cum-Regional Manager vs. Nikunja Bihari Patnaik(supra);*** **State Bank of India & Anr. vs. Bela Bagchi & Ors.(supra);** ***T.N.C.S. Corporation Ltd. And Ors. vs. K. Meerabai (supra); State Bank of India and Ors. vs. T. J. Paul (supra); Regional Manager, U.P. SRTC, Etawah and Ors. Vs.. Hoti Lal and Anr. (supra)*** ; ***Lalit Popli vs. Canara Bank & Ors.****, and decision of the Hon'ble Calcutta High Court in* ***W.P. No. 3096 of 2008, titled Pranab Kumar Bhuyan vs. United Bank of***

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India & Ors.

29. After perusal of all the judgements relied upon by the respondent-Bank, this Court reached on the conclusion that the gist of all the judgement is as follows :- *"It is well settled that a bank officer is expected to maintain a high standard of discipline, integrity, honesty, and a sense of duty and responsibility, as the trust of the public at large is reposed in such officials. However, in the present case, there is no material on record to show that any member of the public has made a complaint, nor has any financial loss or misappropriation of funds been established. Despite the absence of any public grievance, financial loss, or misuse of bank funds, the petitioner has been inflicted with the harsh punishment of compulsory retirement, coupled with the denial of salary, pay, and allowances for the period of suspension except for the subsistence allowance already paid".*

30. In the present case, a perusal of the enquiry report reveals that no substantive evidence was found by the Enquiry Officer himself in support of the charges levelled against the petitioner. However, in the concluding portion of the report, the Enquiry Officer has held the charge to be proved merely on the ground that the petitioner's conduct was

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against banking norms, without citing any supporting material. As regards the second charge, the Enquiry Officer has not arrived at any conclusive finding and has merely noted that the voucher presented by the Presenting Officer, which was signed by the borrower, may be considered for an appropriate decision. Such an inconclusive and unsupported finding cannot form the basis for holding the charges proved.

31. In the findings on the third charge, the Enquiry Officer has accepted that the amount of ₹3,27,510/- debited on 18.05.2016 pertained to Kisan Credit Card (KCC) insurance premium, which was debited for the issuance of Mutual Fund (MF) and was subsequently liquidated by debiting the respective KCC accounts. However, the Enquiry Officer failed to establish why this amount was initially debited from the CD Nominal account. In this regard, a clear and specific clarification was provided by the petitioner in the second show cause notice, wherein it was stated that the said action was taken pursuant to instructions received from the Regional Office. Despite this, the Enquiry Officer has completely overlooked this explanation, rendering the findings arbitrary and unsustainable in law.

32. In the considered opinion of this Court, such

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punishment is wholly arbitrary and illegal, particularly in view of the fact that the findings recorded in the enquiry report, as well as by the Disciplinary Authority and the Appellate Authority, suffer from gross infirmities and are contrary to the settled principles of law and the factual matrix of the case.

33. Accordingly, for the reasons discussed hereinabove, the writ petition is allowed.

34. The impugned orders passed by respondent No.3 namely, the Chief Manager-cum- the Disciplinary Authority dated 19.09.2016 and the order dated 21.11.2016 passed by respondent No. 1 namely, the Chairman, Uttar Bihar Gramin Bank (appellate authority) are set aside. The respondents are directed to make full and final payment of all consequential monetary benefits, including arrears of salary, pay, and allowances, to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	11.07.2025
Uploading Date	15/09/2025
Transmission Date	NA

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