# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.2257 of 2017**

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Madan Mohan Ojha son of Late Awadesh Ojha, resident of near J.N. Hospital, Dumraon, Police Station Dumraon, District- Buxar at present Manager, Madhya Bihar Gramin Bank, Sonbarsa, Police Station Sonbarsa, District-Buxar.

... ... Petitioner/s

Versus

1. The Madhya Bihar Gramin Bank through its Chairman -cum-Disciplinary Officer, Patna
2. The Appellate Board/Directorate of Madhya Bihar Gramin Bank, Patna.
3. Shri Ravindra Nath Trivedi, Enquiry Officer-cum-Senior Manager, Madhya Bihar Gramin Bank, Regional Office, Sasaram.

... ... Respondent/s

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| For the Petitioner/s | : | Mr. Kamal Nayan Choubey, Sr. Advocate<br>Mr. Ambuj Nayan Choubey, Advocate<br>Mr. Ashok Kumar Garg, Advocate<br>Mr. Dineshwar Pandey, Advocate |
| For the Bank | : | Mr. Suresh Pd. Singh, No.1<br>Ms. Kumari Rashmi, Advocate<br>Mr. Aditya Raj, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**
**ORAL JUDGMENT**
**Date : 16-05-2025**

Heard learned Sr. Counsel for the petitioner and learned counsel for the Madhya Bihar Gramin Bank (hereinafter referred to as 'the Bank').

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

*(i) For issuance of an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 14.09.2015 passed by Respondent No. 2 (same has been communicated to the petitioner on 13.10.2015) whereby and where under the Respondent No. 2 has affirmed the order*

*dated 12.06.2015 passed by Respondent No. 1 by which the petitioner has been punished such as "Reduction to four lower stage in time Scale of pay till date of Retirement i.e. 31.01.2017 with further direction that the petitioner will not earn increments of pay during the period of such reduction and on expiry of such period the reduction shall have the effect of postponing the further increments of his pay under regulation 39(1)(b)(i) of Madhya Bihar Gramin Bank (O & E) Service Regulation 2010"*

*(ii) For issuance of an appropriate writ, order or direction in the nature of Mandamus directing the respondents to refund the amount of salary which is deducted from the salary of the petitioner after passing of order dated 12.06.2015;*

*(iii) For grant of any such other relief or reliefs as the petitioner is found3. That the petitioner is citizen of India residing within the territorial jurisdiction of this Hon'ble Court.*

3. Learned Sr. Counsel for the petitioner submits that the petitioner joined the services of Madhya Bihar Gramin Bank (hereinafter referred to as “the Bank”) as an officer and had been discharging his duties to the satisfaction of all concerned. The Bank was constituted in 2006 following the amalgamation of four rural banks: Bhojpur Rohtas Gramin Bank, Magadh Gramin Bank, Patliputra Gramin Bank, and

Nalanda Gramin Bank. It is further submitted that upon transfer, the petitioner joined the Chitaon Branch as Branch Manager on 08.07.2009. In March of a subsequent year, an inspection was conducted by the respondent authorities, where certain rectifiable irregularities were found. Thereafter, a charge-sheet dated 27.05.2014 was issued to the petitioner (Annexure-1), alleging: (i) Embezzlement of funds in collusion with other branch officers through transfers and withdrawals from KCC and savings accounts; (ii) Sanctioning of KCC loans beyond the service area of the branch; and (iii) Granting of KCC loans based on overwriting in land records (LPC/LRR). The petitioner was issued a show cause with a direction to submit a reply, failing which *ex-parte* proceedings would be initiated against him. The petitioner submitted his reply on 30.06.2014 (Annexure-2), contesting all charges. However, without proper consideration of his defense, departmental proceedings were initiated, and an enquiry report was submitted on 23.03.2015 (Annexure-3). Learned counsel for the petitioner points out that the enquiry report does not indicate any personal benefit to the petitioner. While charges I and II were partially upheld, Charge III relating to alleged overwriting from 0.37 acre to 4.37 acres was not properly adjudicated and is contradicted by the LPC issued by the Circle Officer (Annexure-4).

4. Learned Sr. Counsel further submits that subsequently, a second show cause notice dated 29.03.2015 (Annexure-5) was issued. Upon receiving the same on 16.04.2015, the petitioner filed a detailed reply on 18.04.2015 (Annexure-6). Thereafter, the respondent -Bank, vide order dated 12.06.2015 (Annexure-7) passed the order of punishment, imposing the penalty of reduction by four stoppage in time-scale pay until the date of retirement (31.01.2017), with a bar on increments during this period, under Regulation 39(1)(b)(i) of the MBGB (O&E) Service Regulations, 2010. Being aggrieved with the said order of funishment, the petitioner preferred an appeal before the Appellate Authority (Respondent No. 2) on 20.07.2015. The appeal was also dismissed on 14.09.2015 (Annexure-8), communicated to the petitioner on 13.10.2015.

5. Learned Sr Counsel further submits that both the disciplinary and appellate orders are illegal, arbitrary, and unsustainable as no financial loss to the Bank nor any wrongful gain to the petitioner has been established during the departmental proceeding. The charges, if anything, amount to

negligence or an error of judgment may not be a misconduct. Even, no ill motive has been attributed to the petitioner. It is further submitted that sharing of passwords was common practice and that the alleged forgery was negated by officials**.** Learned Sr. Counsel further submits that the appellate order is unspeaking and devoid of reasons, relying on the judgment of *Kranti Associates Pvt. Ltd. & Ors. v. Masood Ahmed Khan & Ors.* [(2010) 9 SCC 496], which mandates that quasi-judicial authorities must provide reasoned decisions.

6. Learned Sr. Counsel further submits that the decision in *CWJC No. 6185 of 2016 (Jaimangal Prasad v. Madhya Bihar Gramin Bank & Ors.)* cited by the respondents is distinguishable. That case involved a cashier with criminal charges pending, which is not comparable to the present case. Conclusively, learned counsel submits that the petitioner has no other efficacious alternative remedy and has thus approached this Hon'ble Court by way of the present writ petition.

7. Learned Counsel for the respondent – Bank, on the other hand, submits that petitioner, initially appointed as an officer in the respondent-bank and while posted at Chitaon (Rohtas) from 08.07.2009 to 08.01.2013, committed serious financial irregularities in KCC loans by using manipulated

LPCs and rent receipts, and by sanctioning loans beyond his service area, resulting in NPA accounts and losses to the bank; hence, disciplinary proceedings were initiated with a charge memo dated 27.05.2014, and a departmental enquiry was conducted after his unsatisfactory reply. Learned counsel further submits that the enquiry report provides detailed discussion of both Management and Defence Exhibits. It specifically notes that a Revenue Receipt in the name of Raghubir Singh originally showed an area of 0.37 decimals, which was manipulated in the LPC to read as 4.37 acres. Based on this, the Enquiry Officer found Charge No. III fully proved. The petitioner, however, neither produced the original Revenue Receipt nor submitted any rebuttal documents in the writ petition only correspondence with the Circle Officer regarding issuance of LPCs, which in fact confirms the landholding area of the loanee. Since even a single proved charge is sufficient for punishment, and given that the Enquiry Officer impartially found some charges partly proved, the findings cannot be termed perverse or biased. Therefore, there is no ground to interfere with the reasoned orders of the Disciplinary or Appellate Authorities.

8. Learned Counsel for the petitioner further

submits that there is a specific and serious charge that the petitioner allowed an unauthorized person, Shashi Bhushan Dubey, access to the bank's system, enabling him to transfer funds, including ₹1,12,000/- from customer/KCC accounts using the petitioner’s password. The petitioner has failed to produce any document authorizing Shashi Bhushan Dubey’s access or explain why no FIR was lodged despite knowing of the misuse.

9. Since passwords are confidential and changeable by the user, the petitioner’s failure to secure his credentials and prevent such fraud amounts to gross misconduct, warranting strict disciplinary action for behavior unbecoming of a bank officer. Learned Sr. Counsel for the respondent -Bank further submits that it is pertinent to emphasize that banking services are founded on a fiduciary relationship, and any breach of such trust by a bank employee must be dealt with sternly. The role of a bank official is distinct from other services, as it is inherently based on trust and confidence; any compromise in this regard poses a serious threat to the integrity and stability of the entire banking system.

10. Learned counsel further submits that although no pecuniary loss was ultimately caused to the bank as the

unauthorizedly withdrawn amount was subsequently re-deposited, but this does not absolve the petitioner of misconduct. In the banking sector, pecuniary loss is not the sole criterion for establishing misconduct. Rather, acting beyond one's authority, especially compromising a secure system by disclosing or allowing misuse of a confidential password, constitutes a serious breach of discipline. In the present case, the petitioner’s password was used for unauthorized withdrawals, and corresponding vouchers were maintained in the branch, indicating willful negligence or connivance. Such conduct amounts to major misconduct. The petitioner, being an officer from the outset, cannot plead ignorance of the importance of maintaining password confidentiality. Permitting a third party to use bank systems with official credentials is not only unauthorized but also grossly unbecoming of a bank employee.

11. In support of his arguments, learned Counsel relied upon the judgment of the Hon’ble Supreme Court rendered in the case of *Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik*, reported in (1996) 9 SCC 69, wherein it was held: *"No organization, more particularly, a Bank can function properly and effectively if its officers and employees do not observe the prescribed norms and discipline.*

*Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations."*

12. Learned Counsel for the respondent -Bank further submits that it is well settled that once charges are proved, imposition of an adequate penalty is justified to maintain discipline within financial institutions. Discipline in a bank is crucial and depends on each officer acting strictly within the bounds of their authority. Any action beyond such authority constitutes a breach of discipline and amounts to misconduct, as held by the Hon'ble Supreme Court in the case of *Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik*, reported in (1996) 6 SCC 69.

13. Learned Counsel for the respondent -Bank further relies on the judgment rendered in the case of *Union of India v. P. Gunasekaran*, reported in (2015) 2 SCC 610, wherein the Hon'ble Apex Court has held that the High Court, in proceedings under Article 226, does not function as an appellate authority over departmental enquiry decisions. Its role is limited to examining whether the enquiry was conducted by a competent authority, followed due procedure, and adhered to the principles of natural justice. If there is some evidence accepted

by the enquiry authority which reasonably supports the conclusion of guilt, the High Court should not re-appreciate evidence or substitute its own findings.

14. In further support, reliance is placed on *Regional Manager, UCO Bank & Ors. v. Krishna Kumar Bhardwaj*, reported in (2022) 5 SCC 595, where it was reiterated that the scope of judicial review in disciplinary matters is confined to correcting errors of law or procedural irregularities that lead to manifest injustice. Constitutional courts do not sit in appeal over departmental findings, nor are they to evaluate the matter on merits as an appellate forum.

15. Learned counsel further relies upon a judgement rendered in the case of *Chairman & Managing Director, United Commercial Bank & Ors. v. P.C. Kakkar*, (2003) 4 SCC 364, wherein the Hon'ble Supreme Court emphasized that bank officers are held to the highest standards of honesty and integrity, given their duty to safeguard depositors' and customers' funds. Every bank employee must act with utmost devotion, diligence, and discipline, and refrain from any conduct unbecoming of a bank officer.

16. Learned counsel for the respondent -Bank also relied on a judgement of the Hon'ble Supreme Court rendered in

the case of State Bank of India and others vs S.N. Goyal, reported in (2008) 8 SCC 92, whose paragraph 41 is very much relevant in this case.

17. Learned counsel for the respondent-Bank lastly submits that the impugned orders have been passed in strict adherence to the principles of natural justice, with the petitioner being afforded ample opportunity to defend himself during both the enquiry and post-enquiry stages. The disciplinary authority provided a copy of the enquiry report and sought the petitioner's response through a show cause notice before imposing the penalty. Thereafter, a reasoned and speaking order was passed, which was duly affirmed by the appellate forum of the Bank and after independent consideration. Both orders are well-reasoned and free from procedural irregularity, and the findings of the Enquiry Officer are neither perverse nor arbitrary. Therefore, no ground for interference is made out under the writ jurisdiction of this Hon'ble Court.

18. After hearing the arguments advanced by both parties and upon perusal of the records, including the pleadings, written submissions filed by the parties, and the judgments relied upon by them, certain aspects of the case remain undisputed. It is not in dispute that the petitioner was serving as

the Branch Manager of the respondent Bank and, therefore, extreme responsibility to ensure adherence to the Bank's rules and regulations. It is also undisputed that a sweeper of the Bank, namely Shashi Bhushan Dubey, was permitted to access the Bank's computer system using the login credentials and passwords of the petitioner and other staff/officials of the branch. Through this unauthorized access, he fraudulently transferred funds from customers' accounts. Once the banking operations transitioned to a computerized system, the responsibility of every official, particularly in securing confidential login information, became paramount. It was incumbent upon the petitioner to either withhold access from unauthorized individuals or ensure their credentials were not compromised. The petitioner, however, allowed a non-employee to access secure banking systems using password and login ID of employee of the Bank, thereby breaching a fundamental tenet of cyber security and professional accountability. While it is acknowledged that the Bank did not suffer a direct financial loss and the misappropriated amounts were subsequently recovered, the fact remains that customer funds were transferred without authorization using credentials entrusted to a bank official. Such a serious breach, especially when committed in the presence and with the knowledge of the Branch Manager, cannot be overlooked or taken lightly.

19. The disciplinary authority has duly considered these aspects and rendered its decision accordingly. It has also been brought to the notice of this Court that the cashier of the said branch was also subjected to disciplinary proceedings, and punishment was imposed. The said punishment was tested and upheld by this Hon'ble Court in the case of *Jaimangal Prasad vs. Madhya Bihar Gramin Bank & Ors.* in CWJC No. 6185 of 2016, wherein this Court, in paragraphs 13 to 24, observed as follows:

> "13. It is well settled that the petitioner who was cashier of the respondent Bank was required to follow the Regulation of the Bank and he did not care to stop the ulterior motive of the sweeper for long period of time is by itself a misconduct. In this regard, I find it proper to rely upon a judgment of the Apex Court in the case of Disciplinary Authority-cum-Regional Manager Vs. Nikunja Bihari Patnaik reported in 1996 (9) SCC 69 which is, inter alia reproduced hereinafter :
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>> "No organization, more particularly, a Bank can function properly and effectively, if its officers and employees do not observe the prescribed norms and discipline. Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations. The very act of acting beyond authority that too a course of conduct spread over a sufficiently long period and involving innumerable instances - is by

> itself a misconduct. Such acts, if permitted, may bring in profit in some cases but they may also lead to huge losses. Such adventures are not given to the employees of Banks, which deal with public funds. If what we hear about the reasons for the collapse of Barings Bank is true, it is attributable to the acts of one of its employees, Nick Leeson, a minor officer stationed at Singapore, who was allowed by his superiors to act far beyond his authority. As mentioned herein-before, the very discipline of an organization and more particularly, a Bank is dependent upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and a breach of the Regulation. No further proof of loss is really necessary, though, as a matter of fact, in this case there are findings that several advances and over-drawals allowed by the respondent beyond his authority, have become sticky and irrecoverable. Just because, similar acts have fetched some profit- huge profit, as the High Court characterizes it - they are no less blameworthy."

14. The question arises whether the act of the petitioner constitute a misconduct.

15. It is gainful to quote the definition of misconduct defined in Stroud's Judicial Dictionary which runs as under: "Misconduct means, misconduct arising from ill motive; acts of negligence, errors of judgment, or innocent mistake, do not constitute such misconduct".

16. In the case of M.M. Malhotra Vs. Union of India reported in (2005) 8 SCC 351, the Apex Court held that

> "the range of activities which may amount to acts which are inconsistent with the interest of public service and not befitting the

> status, position and dignity of a public servant are so varied that it would be impossible for the employer to exhaustively enumerate such acts and treat the categories of misconduct. It has, therefore, to be noted that the word "misconduct" is not capable of precise definition. But at the same time, though incapable of precise definition, the word "misconduct" on reflection receives its connotation from the context, the delinquency in performance and its effect on the discipline and the nature of the day. The act complained of must bear a forbidden quality or character and its ambit has to be construed with reference to the subject-matter and the context wherein the term occurs, having regard to the scope of the statute and the public purpose it seeks to serve."

17. It is well-settled by the Apex Court that, "an error can be indicative of negligence and the degree of culpability may indicate the grossness of the negligence. Carelessness can often be productive of more harm than deliberate wickedness or malevolence. Leaving aside the classic example of the sentry who sleeps at his post and allows the enemy to slip through."

18. The Disciplinary Authority on the basis of the conclusion drawn by the Enquiry Officer found that the charge No. 1(A) i.e. without any mandate/withdrawal slips, amount from various KCC accounts were transferred and credited in SB account with the connivance of Shri Madan Mohan Ojha, held to be proved, whereas, the allegation of fraudulent withdrawal of such amount could not be established. As such, the Enquiry Officer has fairly and justifiably arrived at that the charge no.1(A) is partially proved and Charge no.1(B) is not proved and thereafter, the Disciplinary Authority and the Appellate Authority have also gone through the entire records and considering each of the material on records, found no infirmity and perversity in the findings of the Enquiry Officer, and thus the impugned orders are safely said, as

commensurate with the charges proved.

19. In above background of the fact whether the impugned orders dated 10.07.2015 and 29.10.2015 requires interference of this Court.

20. The Apex Court in the case of Union Of India Vs P. Gunashekaran, reported in (2015) 2 SCC 610 held, inter alia, as follows:

> "The High Court is not constituted in a proceeding under Article 226 of the Constitution, a court of appeal over the decision of the authorities, holding a departmental enquiry against a public servant: it is concerned to determine, whether, the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry, has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence".

21. A similar view is expressed, wherein the scope of judicial review is explained in the case of General Manager (Operation-1)/ Appellate Authority, UCO Bank And Others Vs. Krishna Kumar Bhardwaj, reported in (2022) SCC OnLine SC 201, wherein the Hon'ble Supreme Court has held, inter alia, as follows:

> "So far as, the scope of judicial review in the matters of disciplinary inquiry is concerned, it has been settled that the constitutional courts, while exercising their power of judicial review under Articles 226 or 227 of the Constitution, would not assume the role of the appellate authority, where jurisdiction is circumscribed by limits of

> correcting errors of law or procedural errors, leading to manifest injustice or violation of principles of natural justice. At the same time, the power of judicial review is not analogous to adjudication of the case on merits as an appellate authority.
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> 22. The main stand taken by the petitioner is that there is no financial loss caused to the Bank, as the amount of loss has been deposited back. The petitioner has not produced any cogent evidence and also not given any explanation that once he was known that activity of alleged Shashi Bhushan Dubey from very inception of his joining to be suspicious, he had not changed his USER ID/PASSWORD. The Enquiry Officer concluded that the charge of fraudulent transfers were held to be partially proved.
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> 23. The record reveals that the petitioner had failed to take sincere steps to protect the interest of the Bank and to discharge his duties with utmost devotion and diligence and petitioner having held responsible for the financial loss caused to the Bank which comes under misconduct, as the petitioner was found to have committed lapses /irregularities.
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> 24. In the light of the above settled judicial pronouncement, I find that the act of the petitioner cannot constitute negligence rather the same constitute misconduct committed with the malafide intention. Hence, I don't find any illegality in the order passed by the authorities and accordingly the writ petition stands dismissed."

20. This Court fully agrees with the ratio laid down in the case concerning the cashier of the branch. In the present case, the petitioner, being the Branch Manager, bears greater responsibility than the cashier. The judgments relied upon by learned Sr. Counsel of the petitioner pertain to a period prior to

the computerization of banking systems and are based on facts and circumstances that differ materially from the present case. We are now in an era of computerization, where the management and confidentiality of IDs and passwords are of prime importance. Under the Information Technology Act, even if a wrongful act is committed by another individual using someone's ID and password and whose ID and password used in commission of wrong still be held accountable. In the present case, the disciplinary authority, while imposing the punishment of reduction by four stages in the time scale of pay, has taken a lenient view. This Court finds the punishment appropriate and proportionate in light of the petitioner's misconduct.

21. For the reasons stated above, this Court finds no ground for interference with the impugned order. Accordingly, the writ petition stands dismissed.

**(Dr. Anshuman, J)**

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 19/05/2025 |
| **Transmission Date** | |