

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.567 of 2022

In

Civil Writ Jurisdiction Case No.12297 of 2014

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1. Chairman, Uttar Bihar Gramin Bank Head Office, Sharma Complex, Kalambagh Chowk, Muzaffarpur, Pin- 842001.
 2. The General Manager, Uttar Bihar Gramin Bank, Head Office, Sharma Complex, Kalambagh Chowk, Muzaffarpur, Pin- 842001.
 3. The Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Purnea Region, Koshi Colony, Shrina.

... .. Appellant/s

Versus

1. Sachida Nand Sahay son of Late Daya Nand Prasad, Resident of Mohalla- Mahboob Khan Tola, Near Kali Asthan, Punam Bhawan, Police Station- Khazanchi Hat, Post Office and District- Puenea, Pin- 854301 the then Scale-I Officer, Uttar Bihar Gramin Bank, Banmankhi Branch, Purnea.
2. Mr. R.K. Jha, Ex-Branch Manager, Uttar Bihar Gramin Bank, Banmankhi, Puenea, P.O. and District- Purnea.
3. Mr. Abhay Kumar Chand, Sacle-I Officer, Uttar Bihar Gramin Bank, Banmankhi A/P, Deputed at Regional Office.
4. Presenting Officer of Uttar Bihar Gramin Bank of Department Enquiry, Mr. Subodh Prasad Suman, Scale-II Office, Manager, Krityanand Nagar, P.O.- Krityanand Nagar, District- Purnea, Pin- 854301.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha, Sr. Advocate
Mr. Ajit Kumar Sinha, Advocate
Ms. Dilkash Khan, Advocate
For the Respondent/s : Mr. Santosh Kumar Sinha No. 2, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)



Date : 22-01-2025

Re. I.A. No. 1 of 2022 in L.P.A. No. 567

of 2022 :-

Mr. Ajay Kumar Sinha, the learned Senior Advocate for the appellants/Uttar Bihar Gramin Bank presses the aforesaid interlocutory application for condoning the delay of 12 days in preferring this appeal.

2. For the reasons stated in the application, the delay of 12 days in preferring this appeal is, hereby, condoned.

3. I.A. No. 1 of 2022 stands allowed.

Re. L.P.A. No. 567 of 2022 :-

4. We have heard Mr. Ajay Kumar Sinha, the learned Senior Advocate for the appellants/Uttar Bihar Gramin Bank and Mr. Santosh Kumar Sinha No. 2, the learned counsel for the respondent.

5. The respondent was dismissed from service, which dismissal order was passed after he superannuated from his post of Branch Manager.



6. While working as Branch Manager, he was subjected to disciplinary proceeding. The Inquiry Officer had held the charges levelled against the respondent to be proved. He was issued a second show-cause notice along with the Inquiry Officer's report, though, the same has been denied by the counsel for the respondent. The respondent was then, served with the order of dismissal on 22.10.2014.

7. The contention of the respondent before the Writ Court was that he had superannuated on 29.06.2013 and that was the day when the charge *memo* was served upon him. Apart from this, other grounds were raised by the respondent before the Writ Court challenging the order of dismissal, but the major challenge was to the correctness of the decision of the appellants to dismiss an employee after his superannuation.

8. The learned Single Judge took note of the fact that the service condition of the respondent was



governed by the Uttar Bihar Gramin Bank (Officers and Employees) Service Regulation, 2010. Regulation 1 sub-Clause (3) there of refers to the applicability of the Regulation of 2010, which reads that the Regulation shall apply to every officer and employee of the Bank, provided that they shall not apply except as otherwise provided in the Regulations or to such extent as may be specifically or generally specified by the Board. A reference also was made by the learned Single Judge to Regulation Nos. 45 (1) and 45 (3). Those are being extracted hereinbelow for the sake of completeness and ready reference :

"45 (1) *An officers or employee who is under suspension on a charge of misconduct and who attains the age of superannuation, shall be deemed to be in service even after age of superannuation for the specific purpose of continuation and conclusion of the disciplinary proceedings and issue of final orders thereon.*

45 (3) *The officer or employee against whom disciplinary proceeding has been initiated shall cease to be in service on the date of superannuation but the disciplinary*



proceeding shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.”

9. A bare reading of these Regulations reflect that an employee or an officer who is under suspension on a charge of misconduct and who attains the age of superannuation would be deemed to be in service even after the age of superannuation for the specific purpose of continuation and conclusion of the disciplinary proceedings and issue of final order thereon.

10. Regulation 45 (3) further specifies that an employee against whom a disciplinary proceeding is initiated would cease to be in service on the date of superannuation, but the disciplinary proceeding shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.

11. A harmonious reading of Regulations 1 (A) and 45 (1) & (3) would make the order of dismissal of the respondent absolutely justified. We say so not on the merits of the case of the respondent, but on the



applicability of the Regulation and the contention raised on his behalf, which has been accepted by the learned Single Judge that no order of dismissal could be passed on a retired employee.

12. We have noticed that the charge *memo* was served upon the respondent on the day of his superannuation. However, that would not take away the respondent from the application of the Regulation of 2010.

13. On this score alone, the order passed by the learned Single Judge does not appear to be correct.

14. There is a reference of a judgment of the Supreme Court in ***Nair Service Society Vs. Dr. T. Beermasthan : (2009) 5 SCC 545***, which only states that if a Rule is provided controlling the service conditions of an employee, the same has to be followed.

15. The relationship of master and servant between the appellant and the respondent had not ceased on the day when the departmental proceeding



was initiated. Thereafter, the departmental proceeding continued and considering the charges against him to be proved, the punishment of dismissal was imposed upon him.

16. We do not find anything in the Rules which would take the respondent out of the application of Regulation of 2010 referred to above.

17. Thus, the order passed by the learned Single Judge is set aside and the order passed by the Disciplinary Authority, dismissing the respondent, is restored.

18. The appeal stands allowed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

manoj/Praveen-II

AFR/NAFR	NAFR
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