

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7289 of 2022

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Avinash Kumar Soni (PF Code-A17821) son of Jay Kumar Soni, resident of Flat No. A/1, Brijbhumi Apartment, K. G. Road, Nawada, P.S.-Ara Town, District-Bhojpur at Ara.

... .. Petitioner/s

Versus

1. Punjab and Sind Bank through its Chief General Manager having his office at 5th Floor, Bank House, 21, Rajendra Place, New Delhi-110008.
2. The General Manager (HRD), Punjab and Sind Bank, 5th Floor, Bank House, 21, Rajendra Place, New Delhi-110008.
3. The Deputy General Manager (HRD), Punjab and Sind Bank, 5th Floor, Bank House, 21, Rajendra Place, New Delhi-110008.
4. The Zonal Manager, Punjab and Sind Bank, Zonal Office, Jalandhar, having its office at 1st Flor, PSB House, Model Town, Jalandhar, Punjab-144003.
5. The Zonal Manager, Punjab and Sind Bank, Zonal Office, Kolkata having its office at Old Court House Street, Kolkata-700001.
6. The Branch Manager, Punjab and Sind Bank, Branch Office, Ward No. 10, Old Police Line More, P.O.-Ara, District-Bhojpur (Bihar)-802301.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prashant Sinha, Adv.
For the Respondent/s : Mr.Bhola Shankar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 29-01-2026

I.A. No.01 of 2025

Learned counsel for the petitioner submits that he is not pressing the present I.A. as it becomes infructuous.

2. As such, the present I.A. No.01 of 2025 is hereby dismissed as not pressed.

Re:-C.W.J.C. No.7289 of 2022

3. Heard Learned Counsel for the petitioner and Learned Counsel for the State.



4. Learned Counsel for the petitioner submits that the present writ petition has been filed with the following reliefs:-

(i) For issuance of writ in the nature of certiorari for quashing of the order contained in Ref.: HO/HRD/DAC/2734/2022 dated 25-03-2022 passed by the General Manager (HRD)- Cum-Reviewing Authority whereby the review application preferred by the petitioner has been rejected.

(ii) For issuance of writ in the nature of certiorari for quashing of order contained in Ref.:HO/HRD/DAC/1673/2021 dated 27-09-2021 passed by the Deputy General Manager (HRD- Cum-Appellate Authority whereby the appeal preferred by the petitioner has been rejected.

(iii) For issuance of writ in the nature of certiorari for quashing of order contained in Ref.: E/DAC/ CHACHOKI/ AVINASHSONI/1048 dated 08-03-2021 whereby the petitioner has been dismissed from service by the orders of the Zonal Manager, Jalandhar-Cum-Disciplinary Authority.

(iv) For issuance of writ in the nature of certiorari for quashing of the inquiry report dated 14-01-2021 prepared by the Inquiring Authority without considering the defence/ submissions of the petitioner.

(v) For issuance of writ in the nature of certiorari for quashing of the memo of charge as contained in Ref.:E/RDA/ CHACHOKI dated 13-01-2020 issued by the Zonal Manager, Jalandhar.

(vi) For necessary direction upon the respondent authorities to reinstate the petitioner with full back wages and all consequential benefits as the petitioner has not remained in any gainful employment during the period of his dismissal.

(vii) For necessary direction upon the



respondent authorities to pay full salary and allowances to him for the period he remained under suspension.

5. Counsel for the petitioner further submits that the petitioner had joined the Punjab and Sind Bank as Probationary Officer on 19.11.2012 in the Branch Office, R.C. Phagwara, Punjab. He further submits that during his service, he was transferred to Chachoki Branch in Phagwara on 12.05.2014 and subsequently, transferred to Laxmipur Branch, Katihar on 11.09.2017. He further submits that on 31.08.2018, he was transferred to Ara Branch, Bihar and joined there. He further submits that vide order dated 30.08.2019, he was put under suspension by the order of the General Zonal Manager, Kolkata on the basis of an inspection report of the headquarter, Inspection Department. He further submits that Kolkata is the zonal headquarter for the Punjab & Sind Bank. He further submits that show-cause notice was issued to him for initiation of departmental proceeding on 21.10.2019. In response of the same, he has submitted his explanation dated 28.11.2019. He submits that memo of charge has been submitted on 13.01.2020 with allegation of unauthorized/ fraudulent financial and non-financial transactions with a specific direction to submit his written statement within 10 days.

6. Counsel further submits that there were 17 charges



alleged in the charge memo. He further submits that the petitioner has submitted his written statement of defence on 19.01.2020, then the Zonal Manager, Jalandhar vide its letter dated 28.05.2020 issued a memorandum intimating that the explanation was not satisfactory and with further intimation to hold a departmental enquiry against the petitioner. It has also been intimated about the appointment of Enquiry Authority and presenting Officer.

7. Counsel for the petitioner put emphasis that it is well known to all that in India, a Lock-down was imposed since 22.03.2020 and the said departmental proceeding was initiated during this period, but the petitioner has requested to the enquiry authority for conduction / holding enquiry through video conferencing/virtual mode vide his letter dated 02.07.2020. He further submits that after granting permission to hold enquiry through video conferencing/virtual mode, the petitioner had submitted a letter demanding all relevant documents by virtue of which allegation was to be proved against him. In this regard, he has made specific pleading in paragraph 15 of the writ petition vide his letter dated 27.07.2020, which is Annexure-8 of the writ petition also.

8. Counsel further submits that the only few



documents were provided to the petitioner at the instance of the Presiding Officer. The petitioner further demanded more documents in connection with all the 17 charges levelled against him. He further submits that the documents were not provided to the petitioner. In this regard, the petitioner had made complaint before the Presiding Officer vide his letter dated 02.12.2020 and upon his complaint about non-production of documents to him, the Presiding Officer intimated him vide E-mail that if petitioner wants those documents, he will have to visit the Branch of the Bank.

9. Counsel further submits that it was the era of Covid and Lock-down was going on in different phases, but on 08.12.2020, the Presiding Officer has instructed him to submit his comment within a period of 7 days. He further submits that in response of the letter dated 08.12.2020, petitioner submitted his reply to the Presiding Officer wherein he denied the alleged charges and also pleaded specifically about non-supply of documents as requested by him. He further submits that the Enquiry Authority has submitted his report dated 14.01.2021 by which all 17 charges were proved against the petitioner without discussing defence of the petitioner, which he has taken in his reply.



10. Counsel further submits that the Enquiry Authority thereafter submitted his report before the Disciplinary Authority and he agreed on the finding of the enquiry report as demanded a show-cause from him vide his letter dated 20.01.2021. It has been submitted further that the petitioner has submitted his reply upon finding of the enquiry authority on 27.01.2021. In result, the Disciplinary Authority has issued an order of dismissal on 08.03.2021. The petitioner thereafter preferred memorandum of appeal according to the service rule of Bank before the Appellate Authority (Deputy General Manager, HRD). The said appeal was rejected vide order dated 27.09.2021, then the petitioner preferred review petition against the said order before the General Manager, HRD -cum- Reviewing Authority but his review petition was also rejected vide order dated 25.03.2022.

11. Counsel further submits that in the background of factual matrix of the case, he submits that departmental proceeding was conducted in complete violation of the rule laid down by the Bank, namely, the Punjab & Sind Bank Officer Employees' (Discipline & Appeal) Regulations 1981. He further submits that specifically Regulation No.6(3) of the Bank has been completely violated as it is very much clear that the gist of



documents mentioned in the memo of charge has to be served upon the CSO (Charge- Sheeted Officer), but only few documents have been provided to the petitioner and in this regard, he had raised objection time to time before the Enquiry Authority as well as Disciplinary Authority.

12. Counsel further submits that in the said rule, the requirement of gist of witnesses and statement of witnesses are necessary, but it has not been taken place. He further submits that upon perusal of the enquiry report, it is apparent on the face of the record that none of the point of the CSO has either been placed in the enquiry report or has been discussed, save and except, one phrase has been added in the column as per the enquiry officer. He further submits that without considering the factual matrix of the reply of the CSO, the finding of the Enquiry Authority is absolutely bad in law. He further submits that Enquiry Authority has taken decision completely in violation of the regulation framed for conduction of departmental proceeding against the officials like petitioner. He further submits that the specific violation of Regulation 6(21)(i) of 1981 of the Bank has been made. He further submits that since the said regulation has been violated, then any further action i.e., issuance of show-cause, passing order by



departmental proceeding, passing order by the Appellate Authority or passing order by Reviewing Authority, shall not be sustainable in the eye of law.

13. Counsel further submits that in the present departmental proceeding, not only the relevant regulation of Bank has been violated but also the ratio laid down by the Hon'ble Supreme Court of India in conduction of departmental proceeding has been violated. In support of his argument, he has relied upon the judgements of **Roop Singh Negi Vs. Punjab National Bank & Ors.** reported in **2009 (2) SCC 570** and **the State of Uttar Pradesh and Ors. Vs. Saroj Kumar Sinha** reported in **2010 SCC 772**.

14. Counsel further submits that in those judgments, Hon'ble Supreme Court of India has categorically held that departmental proceeding is a *quasi judicial* proceeding and enquiry officer is duty bound to arrive at the finding upon taking into consideration, the material brought on record by the parties, here in the present case, the CSO and the Bank.

15. Counsel further submits that from the enquiry report, it transpires that the document of the Bank has only been considered and document of the CSO has not been considered at all. Moreover, not a single witnesses has been examined. It is



due to this reason, he submits that either on the basis of the violation of law or violation of the judgment, this departmental proceeding is not sustainable in the eye of law and hence, the enquiry report, second show-cause, disciplinary order, appellate order and revisional order all may be set aside.

16. Learned counsel for the Bank, on the other hand, vehemently opposes the prayer of the petitioner and submits that there is a specific allegation against the petitioner for which 17 charges were framed against him. He relied on annexure-3 of the writ petition, which is the explanation submitted by the petitioner. From the explanation, it transpires that the petitioner has accepted his guilt. He further submits that in the enquiry report, the Presenting Officer has categorical stated and considered the reply of the CSO. He further submits that it is due to this reason, enquiry officer has made special column for consideration of the CSO reply and categorically written in that column as per enclosure. He further submits that the Disciplinary Authority at the time of passing final order, have considered each and every point raised by the petitioner in his reply of the second show-cause. He submits that those points have also been considered by the Appellate Authority and Revisional Authority therefore, according to him, there is



absolutely no violation of either any regulation or ratio laid down by the Hon'ble Supreme Court of India. He further submits that in the departmental proceeding, there is very narrow scope for interference. The interference can be made only when there is violation of rule/regulation or the violation of natural justice or punishment is exorbitant. He further submits that there are no violation of any one and hence, the present writ petition is fit to be dismissed.

17. Upon hearing the parties for the purpose of deciding this case, it is necessary to quote the relevant paragraphs of the regulation which are quoted below:-

Regulation 6(3) of Punjab and Sind Bank Officer Employees' (Discipline & Appeal) Regulations 1981 states as follows:-

Procedure for imposing major penalties:

6(3). Where it is proposed to hold an inquiry, the Disciplinary Authority shall, frame definite and distinct charges on the basis of the allegations against the officer employee and the articles of charge, together with a statement of allegations, list of documents relied on along with copy of such documents and list of witnesses along with copy of statement of witnesses, if any, on which they are based, shall be communicated in writing to the officer employee, who shall be required to submit, within such time as may be specified by the Disciplinary Authority (not exceeding 15 days), or within such extended time as may be granted by the said Authority, a written statement of his



defence. "Provided that wherever it is not possible to furnish the copies of documents, disciplinary authority shall allow the officer employee inspection of such documents within a time specified in this behalf."

Further Rule 6(21) of the same states as follows:-

6(21)(i). *On the conclusion of the inquiry the inquiring authority shall prepare a report which shall contain the following:*

(a) a gist of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(b) a gist of the defence of the officer employee in respect of each articles of charge;

(c) an assessment of the evidence in respect of each articles of charge;

(d) the findings on each article of charge and the reasons therefor.

Similarly, this Court also feels it necessary to quote paragraph 14 of the judgment rendered in the case of Roop Singh Negi (supra) as under :-

"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.”

Similarly the judgment of State of Uttar Pradesh Vs. Saroj Kumar Sinha (supra) whose paragraphs 27 to 30 states as follows:-

27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the



respondents.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.

18. Upon perusal of the enquiry report, which is annexure 14(A) begins from page 244 to 279 of the writ petition, it transpires to this Court that from page 246 that the enquiry report has been prepared in 5 columns. The 1st column indicates serial number, 2nd column is allegation, 3rd column is comment of the Presiding Officer, 4th column is comment of the CSO, 5th column is the Enquiring Authority observation. It further transpires to this Court that in the 4th column, where CSO comment has to be acknowledged only term, “as per the enclosure”, it has been written at one place.

19. In the last page of the enquiry report, the CSO



comment is not the enclosure. This Court upon going through the Regulation 6(21)(i)(b) of the Bank, where it is indicated that the Enquiring Authority shall prepare a report which shall contain a gist of defence of the Officer employee in respect of each articles of charge.

20. This Court finds that the Enquiry Officer has committed a blunder and basically violated the above said regulation by not referring any gist of defence. He has written only one term “as per the enclosure” and upon perusal of the enclosure, the CSO comment is not attached. It is due to this reason, this Court is of the firm view that there is a gross violation of the said regulation in preparation of the enquiry report. It is made clear that any judicial or *quasi judicial* order must contain the reasoning and the judicial reasoning shall always contain the appreciation of the material of both the sides and only thereafter, the Enquiry Officer has to reach on his own conclusion. But here in the present enquiry report, no whisper as to what defence has been taken by the CSO discussed. It is due to this reason, this Court is of the firm view that the enquiry report dated 14.01.2021 annexed in 14(A) is absolutely bad in law and not sustainable.

21. In result, any action taken by the authorities based



on a defective enquiry report, shall also not sustainable in the eye of law.

22. This Court hereby put emphasis on the judgments passed by the Hon'ble Supreme Court of India, where it has been categorically held that the Departmental proceeding is *quasi judicial* proceeding and Enquiry Officer has to perform the *quasi judicial* function. It is the abundant duty of the Enquiry Officer that before reaching on any finding, he has to consider all the materials brought on record by the parties. But here, in the present case, by the Bank, there is complete failure of the same. Not a single witnesses has been examined in the present case which is apparent from the record. Hence, It is also due to this reason, this Court finds that enquiry report is absolutely defective, in result, the order dated 08-03-2021 passed by the Zonal Manager, Jalandhar-Cum-Disciplinary Authority, the order dated 27-09-2021 passed by the Deputy General Manager (HRD- Cum-Appellate Authority and the order dated 25-03-2022 passed by the General Manager (HRD)-Cum-Reviewing Authority are hereby set aside and hence, the present writ petition is hereby allowed.

23. Since the departmental proceeding has been quashed, the employer is at liberty to conclude the proceedings



begins from Enquiry Officer within 6 months of stipulated period of time, after providing due opportunity of hearing to the petitioner.

24. It is made clear that Disciplinary Authority shall also take a decision on the point of admissible back wages of the petitioner in accordance with law.

25. With the aforesaid directions and observations, the present writ application stands allowed.

(Dr. Anshuman, J)

Prakashmani/-

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

