

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4823 of 2020

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Smt. Sony, D/o Shri Vinod Kumar Sinha, W/o Shri Kumar Gaurav, Resident of at House
No.- 170, A.P. colony, Gaya, P.S.- Rampur, District- Gaya.

... .. Petitioner/s

Versus

1. The State Bank of India through the Chief General Manager, Local Head Office, Post Box
No. - 103, West Gandhi Maidan, Patna.
2. The Chief General Manager (Appellate Authority), State Bank of India, Local Head Office,
Post Box No. - 103, West Gandhi Maidan, Patna.
3. The Chief Manager (Domestic Enquiry), State Bank of India, Vigilance Department, Local
Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
4. The General Manager and Appointing Authority, State Bank of India, Vigilance
Department Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
5. The Deputy General Manager (B and O) and Disciplinary Authority, State Bank of India,
Zonal Office, Bhawesh Bhawan, Beaston Road, Khanjarpur, Bhagalpur.
6. The Regional General Manager, State Bank of India, Regional Business Office, Region-IV,
Gaya Branch Building (3rd Floor), Gaya.
7. The Deputy General Manager (Appeal and Review), Department Corporate Centre, 8th
Floor, State Bank Bhawan, Madam Cama Road, Mumbai.
8. The Chief Manager, State Bank of India, Bodh- Gaya Branch, Bodh- Gaya, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate

For the Respondent/s : Mr.Kaushlendra Kumar Sinha, Advocate

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Petitioner was appointed in the year 2010 as a Probationary Officer
in the State Bank of India - she was posted at Bodh Gaya Branch as Assistant
Manager from 28.04.2014 to 28.04.2015.- an allegation was levelled against
her that she submitted a false information/document for her Leased House
accommodation to the Bank with ill intent and took payment of Five (50

Bankers Cheques meant for the landlady Mrs. Rita Sinha amounting to Rs. 75,000/- (Rupees Seventy-Five Thousand only)

Following an internal inquiry, the petitioner was found guilty of the charges, leading to a major penalty of removal from service as per Rule 67(i) of the State Bank of India Officers' Service Rules - Against this, the petitioner has preferred appeal before respondent No.2, namely, the Chief General Manager (Appellate Authority), State Bank of India where her appeal was rejected by order dated 03.03.2017-- Review Petition which was also rejected by respondent No.7 vide order dated 16.12.2017—Hence This writ .

The petitioner contends that the disciplinary proceedings were arbitrary, illegal, and unjustified. The absence of witness examination undermined the integrity of the inquiry.- Furthermore, the petitioner asserts that Smt. Rita Sinha is not fictitious, as she is the legitimate landlady following the death of her father, Jitendra Nath Bose, and the findings of the State Bank of India are erroneous and indicative of a lack of proper consideration of evidence. The State Bank of India maintains that the petitioner has exhausted all available remedies before the disciplinary, appellate, and review authorities. The bank argues that the petitioner failed to prove her case during these proceedings and relies on precedent from the case of State Bank of India and Ors. Vs. Narendra Kumar to support its position:

HELD ,

The basic allegation made against the present petitioner is that Mrs. Rita Sinha is a fictitious landlady which is not correct. Actually, Mrs. Rita Sinha is the landlady which is very much clear from the deed itself. The relevant content of the deed which is present on page No.3 of the deed is quoted as The court found that the departmental proceedings against the petitioner were indeed flawed and perverse due to the lack of witness testimony and proper examination of evidence. The court recognized that the finding of Smt. Rita

Sinha being a fictitious landlady was not substantiated by adequate proof

Accordingly , it is held that the entire departmental proceeding is absolutely perverse and was not conducted in the appropriate manner. Hence, the order dated 27.04.2016, passed by the respondent No.4 ; order dated 03.03.2017, passed by the respondent No.2 and the order dated 16.12.2017 passed by the respondent No.7 as well as the enquiry report are hereby set aside.

The respondents are directed to accept the joining of the petitioner forthwith. The respondents are also directed to pay the salary to the petitioner during the said period. However, the opportunity is hereby granted to the respondent State Bank of Indian that the Bank may proceed with the departmental proceeding afresh, but this time the authority shall take care of the facts acknowledged by this Court in this order, as well as shall take evidences in this matter .

WRIT APPLICATION ALLOWED

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4823 of 2020

Smt. Sony, D/o Shri Vinod Kumar Sinha, W/o Shri Kumar Gaurav, Resident
of at House No.- 170, A.P. colony, Gaya, P.S.- Rampur, District- Gaya.

... .. Petitioner/s

Versus

- 1. The State Bank of India through the Chief General Manager, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
- 2. The Chief General Manager (Appellate Authority), State Bank of India, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
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- 4. The General Manager and Appointing Authority, State Bank of India, Vigilance Department, Local Head Office, Post Box No. - 103, West Gandhi Maidan, Patna.
- 5. The Deputy General Manager (B and O) and Disciplinary Authority, State Bank of India, Zonal Office, Bhawesh Bhawan, Beaston Road, Khanjarpur, Bhagalpur.
- 6. The Regional General Manager, State Bank of India, Regional Business Office, Region-IV, Gaya Branch Building (3rd Floor), Gaya.
- 7. The Deputy General Manager (Appeal and Review), Department Corporate Centre, 8th Floor, State Bank Bhawan, Madam Cama Road, Mumbai.
- 8. The Chief Manager, State Bank of India, Bodh- Gaya Branch, Bodh- Gaya, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate
For the Respondent/s : Mr.Kaushlendra Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 20-04-2024

Heard learned counsel for the petitioner and learned
counsel for the respondent -State Bank of India.

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

“(I) For quashing of the order dated



27.04.2016 passed by the respondent No.4, whereby and whereunder a major penalty of 'Removal from Service', has been imposed upon the petitioner by the respondent No.4.

(II) For quashing of the order dated 03.03.2017 passed by the respondent No.2 communicated vide letter dated 04.03.2017, whereby and whereunder, an Appeal dated 12.01.2017 filed by the petitioner against the said penalty order dated 27.04.2016 (Annexure-1), has been rejected by the respondent No.-2.

(III) For quashing of the order dated 16.12.2017 passed by the respondent No.7 communicated vide letter dated 11.01.2018, whereby and whereunder, the review petition dated 11.09.2017 filed by the petitioner against the appellate authority's (respondent No.2), has also been rejected by the respondent No.7.

(IV) To reinstate the petitioner with all service benefits.

(V) And/or for any other appropriate relief(s) to the petitioner for which she may be found entitled to in the eye of law."

3. Learned counsel for the petitioner submits that the petitioner was appointed in the year 2010 as a Probationary Officer in the State Bank of India and after confirmation of her service she was posted at Bodh Gaya Branch as Assistant



Manager where she remained from 28.04.2014 to 28.04.2015. During her posting at the Bodh Gaya Branch of the State Bank of India, an allegation was levelled against her that she submitted a false information/document for her Leased House accommodation to the Bank with ill intent and took payment of Five (50 Bankers Cheques meant for the landlady Mrs. Rita Sinha amounting to Rs. 75,000/- (Rupees Seventy-Five Thousand) only on 19.01.2015 and on 10.02.2015 from the Branch/Bank without mandate authorization and hence the Bank is likely to suffer a tentative loss of Rs.75,000- (Rupees Seventy-Five Thousand). The said letter was issued on 17.02.2015 by the Chief Manager, Bodh Gaya Branch of State Bank of India, and was served upon the petitioner. In response thereof, the petitioner submitted her reply on 20.02.2015. Learned counsel further submits that on 28.04.2015, the petitioner was transferred from the Bodh Gaya Branch of the State Bank of India to the Fatehpur Branch of the State Bank of India. Counsel further submits that vide letter No. 17.07.2015 again an explanation was sought from the petitioner by respondent No.6, namely, the Regional General Manager, State Bank of India as to why the appropriate disciplinary proceeding should not be initiated against her and subsequently an F.I.R.



bearing Bodh Gaya P.S. Case No. 251/15 dated 22.07.2015 was lodged against the petitioner under Sections 406 and 420 of the Indian Penal Code due to ill intention of the petitioner the Bank is likely to suffer a tentative loss of Rs.75,000/-.

4. Learned counsel for the petitioner further submits that the respondent Bank has never been at a loss as the said Rs.75,000/- was already deducted from the petitioner's salary and was credited into the bank's bank account number. On the ground, the petitioner was granted anticipatory bail vide A.B.P. No. 796/2016 on 03.04.2016. Learned counsel further submits that on 10.11.2015 (as contained in Annexure-6), statement of charges for initiating departmental proceeding for major penalty against the petitioner was issued and served upon her vide letter dated 25.11.2015 by respondent No.5, namely, the Deputy General Manager (B & O) and Disciplinary Authority, State Bank of India, as contained as Annexure -I at page 4 of the writ petition in which article of charges were made as under :-

“while posted as Assistant Manager (CRO) at Bodh Gaya Branch during the period from 28/04/2014 to 28.04.2015, you failed to discharge your duties with utmost devotion, diligence, integrity and honesty and acted in a manner highly prejudicial to the Bank's interest in violation of Rule 50(4) of



State Bank of India Officer' Service Rules.”

Statement of allegation has been made at page 43,
Annexure -II of the writ petition, as follows :-

Statement of Allegation

While posted as Assistant Manager (CRO) at Bodh Gaya Branch (from 28/04/2014 to 28/04/2015), you have allegedly committed the following irregularities :-

1. You submitted a fabricated and false leased housing proposal to the Bank with ill intent.

2. Fully knowing that the land lady was Smt. Indira Singh, you submitted the proposal mentioning a factious land lady named Smt Rita Sinha for taking pecuniary benefit for yourself with malafide intention. Thus you violated the terms and conditions stipulated for leased house accommodation and gave false declaration in this regard.

3. You took payment of the Bankers Cheques bearing Nos. 678364, 678364 and 678365 for Rs.15,000/- each on 10/02/2015, misrepresenting the fact that the payment was meant for your land lady and she was present at Bodh Gaya Branch on the said dates. Even, you countersigned the forged signatures purportedly of the land-lady on the back of the said Banker's Cheques of leased rental.

4. Due to your above acts of omission and commission, the Bank is likely to suffer a tentative



loss of Rs.75,000/- plus interest and expenses in addition to severe loss of reputation.

List of documents has been shown at page 44,
Annexure -III of the writ petition as under :-

List of documents

“1. Leased house document.

2. Banker's cheque issued vouchers for B.Ch Nos. 678363, 678364 and 678365 for Rs.15,000/- each and for Banker's Cheques Nos. 678367 and 678369 for Rs.15,000/- each.

3. Paid Banker's cheques vouchers for Bch No.s 678363, 678364 and 678365 for Rs. 1,000/- each dated 19/01/2015 and for Banker's Cheques Nos. 678367 and 678369 for Rs.15,000/- each dated 10/02/2015.

4. VVRs dated 19/01/2015 and 20/02/2015.

5. Verification Report vide letter dated 24/02/2015 of Shri Ranjan Kumar, Dy. Manager of PBB Doctor's Colony Branch Patna;

This does not purport to be the final list of documents in terms of Rule 68(2) (V) (c) of the SBI Officers Service Rules and Bank may add some more documents during the course of enquiry.”

5. Learned counsel for the petitioner further submits that in response of the said charge memo, the petitioner has



submitted her written statement of defense and refuted the allegation as mentioned in the statement of charges. The case of the petitioner was referred before the Enquiry Officer and the Enquiry report was submitted. The opportunity was granted to the petitioner to appear before the departmental proceeding and she was also asked to appoint the defense counsel to place her defense on her behalf in the departmental proceeding. The Enquiry Officer in the Enquiry has worked out allegation-wise as those allegations were in total four in number and all allegations were found proven hence, the charge has also been found proven.

6. Learned counsel for the petitioner has submitted his show cause before respondent No.5, namely, the Deputy General Manager (B & O) and Disciplinary Authority, State Bank of India, but in the final order she has been proven guilty and a major penalty of 'Removal from Service' has been imposed upon the petitioner in terms of Rule 67(i) of State Bank of India Officers' Service Rules. It has been communicated to the petitioner vide Letter dated 05.05.2016 (Annexure-1 to the writ petition) which is the order impugned.

7. Learned counsel for the petitioner further submits that the petitioner being dissatisfied with the said order has



preferred an appeal which has not been considered and has been rejected vide order dated 03.03.2017 and communicated to the petitioner vide letter dated 04.03.2017 (Annexure-2 to the writ petition). This order is also impugned. After that the petitioner preferred a Review petition dated 11.09.2017 which was also rejected and it has been communicated to the petitioner through a letter dated 11.01.2018 (Annexure-3 to the writ petition) this is also the order impugned.

8. Learned counsel for the petitioner has taken the plea that the impugned orders are completely illegal, arbitrary, discriminatory, unjustified, and bad in the eye of the law as while passing the impugned orders neither respondent No.2 nor respondent No. 4 and 7 have considered and appreciated that no witness has been examined or cross-examined before the Inquiry Authority in the departmental proceeding and only on the basis of the verification report, the charges have been showing proved against the petitioner. The further plea has been taken that the said verification report cannot be treated as evidence due to the reason that the verifying officer was neither called to depose before the Inquiring Authority nor was examined or cross-examined.

9. Learned counsel for the petitioner further submits



that the said departmental proceeding has been conducted in gross violation of the judgement rendered in the case of **Roop Sing Negi Vs. The Punjab National Bank and Others**, reported in (2009) 2 SCC 570 in which it has been clearly held that a departmental proceeding is a quasi-judicial proceeding and any material has to be proved definitely on the basis of a witness.

10. Learned counsel for the respondent State Bank of India, on the other hand, submits that the petitioner has lost her case before the disciplinary authority, appellate authority, or the review authority. At the time of conducting the departmental proceeding, the Presenting Officer has duly followed the principles of natural justice and after granting the opportunity to defend, the orders have been passed. Counsel further submits that the disciplinary authority after receiving the finding of the enquiry officer has granted the opportunity to the petitioner to file a second cause and upon receiving the 2nd show cause, the authority has received representation of the petitioner and upon considering every aspect of the matter has passed the final order imposing a major penalty of 'Removal from Service' in terms of Rule No. 67(i) of the State Bank of India Officer's Service Rules. Learned counsel further submits that the appointing authority



has also granted the petitioner, the opportunity of a personal hearing on the proposed penalty. In response whereof, the petitioner has appeared and after that, the appointing authority has passed the speaking order on 05.05.2016. Against this, the petitioner has preferred appeal before respondent No.2, namely, the Chief General Manager (Appellate Authority), State Bank of India where her appeal was rejected by a speaking order dated 03.03.2017. Against the order passed in appeal, the petitioner preferred Review Petition which was also rejected by respondent No.7 vide order dated 16.12.2017. Thereafter the petitioner has preferred the present writ petition which is fit to be dismissed on merit itself.

11. To substantiate his argument, learned counsel for the respondent -State Bank of India relied on a judgment rendered in the case of **State Bank of India and Ors. Vs. Narendra Kumar Pandey** reported in (2013) 2 SCC 740 in which it has been held that in every case oral evidence is not necessary. He further relied on a judgement rendered in the case of **Dr. Noorul Ahad Vs. the State of Bihar and Ors.** Reported in 2008(3) PLJR in which it has been held that in every matter oral evidence is not required.

12. After having heard both parties in detail and upon



going through the materials available on record, it transpires to this Court that there is one charge alleged against the petitioner, and with a view to proving the said charge four allegations were made, all were found proved and hence charge has to be treated as proved. The allegation in crux is that the petitioner has submitted a false and fabricated Leased House proposal of a fictitious lady Smt. Rita Sinha before the respondent State Bank of India for the purpose of her Leased House Accommodation and took payment of monthly house rent for five months on that basis. The said house/flat actually belongs to Mrs. Indira Singh and Mr. Kumar Gaurav as it is self-evident from a perusal of the registered deed of the absolute sale vide No. 6581 dated 11.03.2013 which is part of the departmental inquiry as prosecution exhibit No.7. There is no connection in between said fictitious land lady, Smt. Rita Sinha, and the actual flat owners, namely, Mrs. Indira Singh and Mr. Kumar Gaurav. This is the factual matrix inserted by the respondent's State Bank of India in paragraph 22 of the counter affidavit. The photocopy of the said registered deed of absolute sale has also been attached. Upon bare reading of the said deed of absolute sale, this Court was extremely surprised that neither the enquiry officer nor the disciplinary authority nor the appellate authority nor the



reviewing authority has acknowledged this fact which is already on the record. The basic allegation made against the present petitioner is that Mrs. Rita Sinha is a fictitious landlady which is not correct. Actually, Mrs. Rita Sinha is the landlady which is very much clear from the deed itself. The relevant content of the deed which is present on page No.3 of the deed is quoted as under:-

“WHEREAS, the land in question, which is fully described in First Schedule of this deed is the ancestral property of the Land owners. In the Municipal Survey Khatian the name of Sri Sisir Kumar Kaviraj and Sri Mihir Kumar Kaviraj both sons of Sri Suresh Chandra Kaviraj, was recorded as landowners of the land in question. After a family partition, Kaumudi Kumari Mukherji got its title and possession over the lands in question through a partition deed executed by and between (1) Mrs. Jadumonic Kaviraj wido of Sisir Kumar Kaviraj deceased (2) Mihir Kumar Kaviraj Son of Suresh Chandra Kaviraj deceased and (3)Kaumudi Kumari Mukherji wife of Mr. Janendra Natha Mukherjee and Daughter of Late Suresh Chandra Kaviraj and registered vide No.1909/1941 in Book No.1, Vol. No.23, page No. 424 to 440 in Patna Registry Office, Jitendra Nath Bose (the husband of Smt. Nilima Bose and father of Smt. Rita Sinha) purchased the said land through a registered deed of absolute sale executed by the said Kaumudi Kumari Mukherji and registered vide No. 2868/1960 in Book NO.1, Vol.



No.57, Page No.92 to 100 in Patna Registry Office. After the death of Jitendra Nath Bose (1) Smt. Nilima Bose and (2) Smt. Rita Sinha, the only issue of the late Jitendra Nath Bose, stepped into the show of late Jitendra Nath Bose thus the landowners got the title and possession over the lands in question jointly. After the death of late Jitendra Nath Bose. Being the Kartha of the family Smt. Nilima Bose got the property in question mutated in her name in the Patna Municipal Corporation.”

13. Upon bare perusal of the said deed, it transpires to this Court that the land on which the alleged apartment has been constructed has been recorded in the municipal records of right in the name of Suresh Chandra Kaviraj having two sons Shri Sisir Kumar Kaviraj and Sri Mihir Kumar Kaviraj and one daughter Kaumudi Kumari Mukherji married with Jitendra Nath Mukherjee. The said sons and daughter of the Suresh Chandra Kaviraj entered into a partition vide registered deed No. 1909/1941 in Book No.1, Vol. No. 23. page No. 424 to 440 in Patna Registry Office. The said Kaumudi Kumari Mukherji had sold her share to one Jitendra Nath Bose through registered deed No. 2868/1960 entered in Book No. 1, Vol. No. 57, Page No. 92 to 100 in Patna Registry Office. The said Jitendra Nath Bose died leaving behind his wife Nilima Bose and daughter Rita Sinha. In this way, Mrs. Rita Sinha who is said to be a fictitious



lady by the bank authority is actually the land lady/land owner of the property in question. Hence, the finding of the respondent State Bank of India that said Rita Sinha is a fictitious lady is absolutely perverse and non-application of mind which is the basis of the punishment to the petitioner. It transpires to this Court that all the bank officials who involved in the conducting of enquiry of the petitioner either original level, appellate level or review level have not applied their mind on this matter.

14. This Court is also of the firm view that there is gross violation of law laid down in the case of **Roop Singh Negi (supra)**, the relevant paragraphs 14 and 15 whereof is quoted 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 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.”

15. Evidence of the witnesses are extremely necessary for holding that she is a fictitious lady. In addition to that it also transpires to this Court that Mrs. Rita Sinha is actually land lady and the said Indira Singh and Kumar Gaurav have purchased only one flat by virtue of a sale deed i.e. Flat No. 101. It has not alleged in the proceeding that the petitioner proposes to take flat No.101 on rent rather it is there that she has talked with the land lady Mrs. Rita Sinha in whose name electricity bills are there. From the documents produced by the respondent State Bank of India, attached in the writ petition, as Annexure R-7 of the



counter affidavit, it transpires to this Court that existence of electricity bills in the name of Mrs. Rita Sinha is quite natural as she is the land lady.

16. In the light of the facts which have come in the counter affidavit of Annexure-7, this Court is of the firm view that the departmental proceeding has been conducted in a perverse manner and as such, the judgment rendered in the case of **State Bank of India and Ors. (supra) and Dr. Noorul Ahad (supra)** relied by the counsel for the respondent State Bank of India are not applicable in the present case due to the reason that the question of oral evidence was not always required only when the documents on record have properly been considered. Here in the present case situation is otherwise.

17. Therefore, in the light of the above discussions, this Court is of the firm view that the entire departmental proceeding is absolutely perverse and was not conducted in the appropriate manner. Hence, the order dated 27.04.2016, passed by the respondent No.4; order dated 03.03.2017, passed by the respondent No.2 and the order dated 16.12.2017 passed by the respondent No.7 as well as the enquiry report are hereby set aside.

18. The respondents are directed to accept the joining



of the petitioner forthwith. The respondents are also directed to pay the salary to the petitioner during the said period. However, the opportunity is hereby granted to the respondent State Bank of Indian that the Bank may proceed with the departmental proceeding afresh, but this time the authority shall take care of the facts acknowledged by this Court in this order, as well as shall take evidences in this matter.

19. In result, the writ petition stands allowed with the aforesaid observation and direction.

(Dr. Anshuman, J)

Ashwini/-

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