

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10725 of 2010

Bhavendra Jha, S/O Late Shobha Kant Jha, R/O Vill.- Bahuarwa, P.S.-
Manigachhi, Distt.- Darbhanga.

... .. Petitioner.

Versus

1. The Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur, through its Chairman.
2. The Chairman, Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur.
3. The General Manager-Cum-Disciplinary Authority, Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur.
4. The Appellate Authority of the Uttar Bihar Gramin Bank, Kalambagh Chowk, Muzaffarpur.
5. The Senior Branch Manager of the Uttar Bihar Gramin Bank, Biraul, P.S.- Benipur, Distt.- Darbhanga
6. Shri Ram Chandra Choudhary, the Inquiry Authority-Cum-Officer, Controlling Office, of the Uttar Bihar Gramin Bank (herein after referred to as "the Gramin Bank"), Darbhanga.

... .. Respondents.

Appearance :

For the Petitioner	:	Mr. Kripa Nand Jha, Advocate.
For the Bank	:	Mr. Prabhakar Jha, Advocate. Mr. Amitesh Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 12-01-2024

In the instant writ petition, the petitioner has prayed
for the following relief(s):

“(i) For issuance of an appropriate order, direction or writ in the nature of certiorari quashing the order dated 4.4.2009 passed by the Disciplinary authority as well as the Appellate order dated 12.05.2010 by which the petitioner has been removed from



service of the Gramin Bank.

- (ii) For further issuance of an appropriate direction, order or writ in the nature of mandamus commanding the respondents to reinstate the petitioner back in service with all consequential benefits.
- (iii) For any other relief or reliefs for which the petitioner may be entitled to in the facts and circumstances of the present case.”

2. On 19.10.2023, the following order was passed:

“The matter is of the year 2010. There is no assistance from the learned counsel for the respondents-bank for the reasons that the relevant statutory provision or executive order is prior to 29.12.2007, for the reasons that charge memo was issued on 29.12.2007. On the other hand, today learned counsel for the respondents has brought Rules relating to 2010.

2. Before appearing in the case, it is bounden duty of the counsel to apprise which are the relevant statutory Rules are applicable and such of those statutory Rules shall be made available to this Court. In not producing relevant regulations under which petitioner was subjected to various



action, Respondents are hereby directed to pay cost of Rs. 5,000/- in the Patna High Court Legal Services Committee for causing inconvenience to this Court read with the fact that matter is pending consideration for the last thirteen years.

3. At the request of learned counsel for the respondents re-list this matter on 03.11.2023.”

3. Today, learned counsel for the respondents fairly submitted that none of the witnesses have been cited and examined in support of the alleged charges levelled against the petitioner. In other words, the alleged charges were not proved in the manner known to the law. The alleged charges are as under:

“ आरोप संख्या-01

श्री भवेन्द्र झा, लिपिक-सह-खजांची(निलंबित) शाखा-विरौल अवकाश उपभोग के पश्चात् दिनांक 20.10.2004 को पुर्वाहन 10.00 बजे खजांची प्रभार की सेफ की चाभी नं0 1 शाखा प्रबंधक श्री मोदानन्द झा से प्राप्त किया एवं प्रबंधक प्रभार की दूसरी अन्य चाभियां अनधिकृत रूप से अपने संरक्षण में रखकर 20.10.2004 की रात्रि में तिजोरी की दोनों चाभियों एवं स्ट्रांग रूम की चाभियों के सहयोग से शाखा तिजोरी में रखी कुल नगद राशि 15,20,849=35 मात्र की चोरी कर ली गयी।

आरोप संख्या-02

बैंक द्वारा निर्धारित नियमों के तहत शाखा चाभी का हस्तान्तरण चाभी बही पर लिखित प्रभार के द्वारा किया जाता है। श्री भवेन्द्र झा द्वारा खजांची प्रभार की सेफ की चाभी सं0 1 शाखा प्रबंधक श्री मोदानन्द झा से 20.10.04 को पुर्वाहन 10.00 बजे लिखित रूप से प्राप्त किया गया लेकिन प्रबंधक प्रभार की सेफ चाभी सं0 2 गलत काम को अंजाम देने की मंशा से श्री भवेन्द्र झा ने बिना लिखित प्रभार के दिनांक 20.10.04 को प्राप्त किया। श्री झा द्वारा नियमों के विरुद्ध बरती गयी उपरोक्त कृत्य के



कारण बैंक को गम्भीर आर्थिक क्षति हुई है एवं ग्राहकों के बीच बैंक की छवि धुमिल हुई है। श्री झा का उपरोक्त कृत्य उत्तर बिहार क्षेत्रीय ग्रामीण बैंक अधिकारी एवं कर्मचारी सेवा विनियम 2006 के विनियम 17, 18, एवं 19 का स्पष्ट उल्लंघन है। ”

4. The charge memo dated 29.12.2007 does not contain the list of documents and list of witnesses. There are serious charges levelled against the petitioner to the extent that there were theft of a sum of Rs.15,20,849.35/- from the safe locker of the Respondent-Bank.

5. Safe locker of the Bank was having a double locking system and each key was assigned among two staffs, namely, petitioner and Branch Manager. If there is no break open of safe locker of the Respondent-Bank and each key was assigned to the petitioner and Branch Manager and theft of Rs.15,20,849.35/- has taken place in that event there should have been common enquiry under the service regulation of Uttar Bihar Gramin Bank called “ Uttar Bihar Gramin Bank (Officers and Employees) Service Regulations-2008 and Regulation No.41 relates to common enquiry. It is necessary to reproduce the Regulation No.41 which reads as under:

“41. Common Enquiry

Notwithstanding anything contained in these Regulations, if two Officers in different grades or an officer and an employee are involved jointly in an



incident and disciplinary proceedings are sought to be instituted against both of them and the Chairman is of the opinion that having regard to the facts and circumstances of the case, the Competent Authority in respect of both the officer and employee should be the same, the Chairman may direct that the Competent Authority in respect of the Officer shall be the Competent Authority in respect of both the officer and employee involved and a common enquiry shall be held into the charges against both of them and the delegation of power to enquire under Regulation 40 and the procedure, with the exception of the final order shall be in favour of the same enquiry officer.”

6. The respondents have not resorted to Regulation No.41 in respect of more than one employee/Officer involved in the alleged misconduct. In the present case, theft of a sum of Rs.15,20,849.35/- from the safe locker of the Bank and the alleged allegation is in respect of petitioner and Branch Manager. The respondents have initiated inquiry and concluded while holding individual inquiry instead of holding a common inquiry.

7. Perusal of the records, it is evident that how the



petitioner alleged to have managed to obtain one of the safe locker key from the Branch Manager or vice versa is not forthcoming. Therefore, it is a case of no evidence. That apart, none of the witnesses have been examined insofar as proving the alleged charges. Taking note of these facts and circumstances, it is a case of no evidence. The Hon'ble Apex Court in the case of **Kuldeep Singh Versus Commissioner of Police and Others** reported in **(1999) 2 SCC 10** has held that the Courts normally would not interfere in respect of departmental inquiry unless if there are any violation of Rules and case of no evidence. In the present case, charge memo is not accompanied by list of statement of imputation, list of documents and list of witnesses. That apart, the alleged charges were not proved in the manner known to the law. Therefore, the petitioner has made out a case so as to interfere with the impugned order dated 04.04.2009 passed by the Disciplinary Authority (Annexure-17) as well as the Appellate order dated 12.05.2010 (Annexure-19) and they are, accordingly, set aside.

8. The instant writ petition stands allowed.

9. The concerned respondent is hereby directed to regulate the service of the petitioner from the date of removal from service and extend service and monetary benefits within a



period of four months from the date of receipt of this Judgment.

(P. B. Bajanthri, J)

P.S./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	16.01.2024.
Transmission Date	NA

