

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.547 of 2022

Bhola Mahto Son of Late Sitaram Mahto Resident of Mohalla-New Durgapuri Colony, BMP 6, P.S.-Mithanpur, P.O.-Muzaffarpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Chairman Uttar Bihar Gramin Bank, Having its Quarter in Sharma Complex, Kalambagh Chowk, Muzaffarpur (Bihar)-842001.
2. The General Manager, Uttar Bihar Gramin Bank, Having its Head Quarter in Sharma Complex, Kalambagh Chowk, Muzaffarpur (Bihar)-842001.
3. The Disciplinary Authority, Uttar Bihar Gramin Bank, Having its Head Quarter in Sharma Complex, Kalambagh Chowk, Muzaffarpur (Bihar)-842001.
4. The Chief Manager, Uttar Bihar Gramin Bank, Having its Head Quarter in Sharma Complex, Kalambagh Chowk, Muzaffarpur (Bihar)-842001.
5. The Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Bettiah (West Champaran)
6. The Regional Manager, Uttar Bihar Gramin Bank, Regional Office. Motihari (East Champaran).
7. The Branch Manager, Uttar Bihar Gramin Bank, Regional Office, Bettiah (West Champaran).
8. The Branch Manager, Jagdishpur Branch of Uttar Bihar Gramin Bank, Nautan Block, District-West Champaran.
9. The Branch Manager, English Branch of Uttar Bihar Gramin Bank, English, District-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra, Adv
For the Respondent/s : Mr. Prabhakar Jha

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT

Date : 06-04-2026

Heard the parties.

2. The present writ petition has been filed for the following reliefs:-

“(1) For issuance of a writ in the nature of certiorari for quashing the impugned Order



contained in Letter No. HO/DAD/13/20-21/985 372 dated 12 March, 2021 (Annexure-1) issued under the signature of Respondent No. 3 i.e. the Disciplinary Authority with all consequential benefits to the petitioner, whereby and where under the petitioner has been awarded punishment of reduction to initial stage in time scale of pay till his retirement in terms of Regulation 39 (1) (b) (i) of Uttar Bihar Gramin Bank (Officers & Employees) Service Regulations, 2010 read with Uttar Bihar Gramin Bank Service (Amendment) Regulations, 2013; however, the aforesaid punishments has been awarded to the petitioner with avowed motive under targeted approach to penalize him without considering the facts and circumstances of the case of the petitioner with malafide intention, biasness in complete ignorance of law of the land and facts and without application of mind amounting to violation of natural justice.

(ii) For further issuance of a writ in the nature of certiorari for quashing the impugned Appellate Order contained in Letter No. HO/DAD/14/21-22/ No. 149 dated 28 September, 2021 (Annexure-2) issued by Respondent No. 1.i.e the Chairman, Uttar Bihar Gramin Bank-cum-Appellate Authority whereby and where under the Appellate Authority has up held the punishment awarded



to the petitioner by the Disciplinary Authority and the appeal dated 20.04.2021 (Annexure-10) has been rejected under predetermined and in targeted approach with malafide intention

(iii) This Hon'ble Court be pleased to hold and adjudicate that the petitioner has been harassed and humiliated without considering his case and the facts and circumstances under which he has been charged and the Inquiry Officer has wrongly held the charges against the petitioner proved with biased approach which was not the proper approach of the departmental proceeding held against the petitioner and as such the petitioner is entitled for reliefs in this case with all consequential benefits.

(iv) Any other appropriate relief/reliefs may also be granted to the petitioners for which he is found entitled in the facts and circumstances of the case.”

3. The brief fact giving rise to the present writ petition are that the petitioner was appointed as Scale-I Officer in Uttar Bihar Gramin Bank on 27.03.1989 and was initially posted at Rampurwa Branch of the Bank and after working in different Branches of the Bank, he was promoted as Scale-II Officer in January, 2016 and was posted at Uttar Bihar Gramin Bank, Jagdishpur Branch, Nautan Block, West Champaran.



While posted at the Jagdishpur Branch of the Bank under the Regional Office at Bettiah Region, the petitioner was served with a show cause notice contained in Letter No. RO MOT/13/2020-21/REC/119 dated 30.04.2020 issued under the signature and the Regional Manager, Motihari, wherein certain charges were levelled against the petitioner, including the charge that he did not check the past transaction history of the borrowers in the 04 CCGEN account and allowed the transaction of Rs. 22,00,000/- (Twenty Two Lakhs) from the accounts, though the account were not of the Branch. The petitioner was directed to submit his show cause reply and in compliance thereof he submitted his show cause reply on 30.05.2020, before the Regional Manager, Motihari, explaining the circumstances under which transaction was allowed and denied the allegations levelled against him in detail.

4. The learned counsel for the petitioner submits that being not satisfied with the reply submitted by the petitioner, vide Letter No. HO/DAD/13/20-21/ No. 137 dated 17.08.2020, the petitioner was served with a Memorandum of charge, were levelled against him. The petitioner was again directed to submit his explanation/reply and in compliance thereof he submitted the same on 31.08.2020, whereby he again



denied the charges levelled against him, in the Memo of Charge dated 17.08.2020.

5. The departmental proceeding was initiated against the petitioner and Enquiry Officer as well as Presenting Officer were appointed vide Letter No. 161 dated 02.09.2020, to conduct the departmental proceeding and to present the stand of the department in the departmental proceeding, respectively. The Enquiry Officer vide Letter No. 134 dated 17.08.2020, directed the petitioner to submit his statement of defense. On 11.09.2020, the petitioner appeared before the enquiry officer and requested the Enquiry Officer to exonerate him from the charge levelled against him, but the Enquiry Officer did not consider the reply, filed by the petitioner and proceeded with the Domestic Enquiry. On 11.01.2021, the Presenting Officer submitted written brief of note, without consideration of the explanations and defense of the petitioner in the enquiry and came to the conclusion that all the charges were found to have been proved against the petitioner.

6. The learned counsel for the petitioner submits that the Enquiry Officer after conducting the enquiry, came to the conclusion that all the charges levelled against the petitioner were found to be proved, although the enquiry was conducted



without proper verification and examination of the evidence. The Enquiry Officer submitted his enquiry report before the disciplinary authority, vide Letter No.338 dated 15.02.2021. The defense representative of the petitioner submitted his written brief on 28.01.2021, wherein, it was clearly mentioned that on the basis of the materials placed before the Enquiry Officer and the facts and circumstances of the case, none of the charges against the petitioner deserves to be proved. However, the disciplinary authority by his order contained in Letter No. HO/DAD/13/20-21/985 372 dated 12.03.2021 proceeded to award punishment against the petitioner, without considering the written brief submitted by the petitioner and inflicted the punishment of reduction to initial stage in his time scale of pay, till his retirement, in terms of Regularisation 39 (1) (b) (i) of Uttar Bihar Gramin Bank (Officers & Employees) Service Regulations, 2010 read with Uttar Bihar Gramin Bank Service (Amendment) Regulation, 2013.

7. The petitioner being aggrieved and dissatisfied with the order dated 12.03.2021 passed by the disciplinary authority, filed his statutory appeal before the Appellate Authority-Cum-Chairman, Uttar Bihar Gramin Bank, Head Office Kalambagh Chowk, Muzaffarpur whereby he took a plea



that the cheque issued through the system of CCGEN accounts in the name of firm, by English Branch under R.O., Motihari has been deposited in the saving Bank Account No. 1002221010002592 of Jagdishpur Branch under Regional Office Bettiah for collection by the account holder of savings bank account and resultantly the petitioner, as Branch Manager of Jagdishpur Branch, credited the above mentioned amount in the saving account of the customer, debiting the concern CCGEN account, as per the Banking norms and practice. The petitioner has provided the facility to customer which is permissible under C.B.S, and the N.I. Act and further there is no restrictions or any circular Bank in this regard, not to collect such type of cheque, therefore, the petitioner has done his duties. The petitioner further award in the petition that if the concerned CCGEN account was going to be NPA, then it was the duty of the Branch Manager of the Motihari Branch i.e. English Branch of Uttar Bihar Gramin Bank under Regional Office Motihari to freeze the debit of the concerned account or disabled the cheque through system of the CCGEN account in question. The Branch Manager of the English Branch of Uttar Bihar Gramin Bank under Regional Office Motihari did not perform his duty, which required from a Branch Manager and



the lapse is there on his part.

8. The learned counsel for the petitioner further submits that the appellate authority without considering the defense taken by the petitioner in his Memo of appeal dated 20.04.2021, rejected the same vide order dated 28.09.2021. The learned counsel for the petitioner submits that the negligence or misconduct alleged to have been committed by the petitioner is not correct, since this Court as well as the Hon'ble Supreme Court in catena of judgments has held that every negligent act or a procedural lapse, which may reflect an error of judgment, cannot be construed as a misconduct, unless the results are disastrous and the object is malicious. In the present case, both the ingredients are missing, since neither there is any evidence to support the allegation of *malafide* against the petitioner or to support the allegation of pecuniary gain and nor there is any evidence to support that the action gave disastrous result. The petitioner has not done any illegal act since while posted at Jagdishpur Branch he allowed the transactions in 04 CCGEN accounts of another Branch i.e. English Branch, Regional Office, Motihari, without any knowledge that the loan account of another Branch is being debited, as it was not the duty of the petitioner to check the past transactions history of borrowers,



since the account was open for transactions and no such information was given to the petitioner, if there was any shortcoming in the account of the borrower, the same ought to have been freezed, but since the account was not freezed, therefore, it was not the duty of the petitioner to make any enquiry from his Jagdishpur Branch. There was no deliberate laches on the part of the petitioner, therefore, the punishment awarded to the petitioner is malicious.

9. The learned counsel for the petitioner further submits that the act of the petitioner did not cause any loss to the Bank and the loss, if any, was caused without any deliberate intention. The petitioner enhanced the deposits of his Branch i.e. Jadishpur Branch. Further in these days of advancing technology wherein online transactions are being performed, the Branch Manager of the English Branch did not take any step to freeze the accounts of the borrowers and as such the allegations should have been made against the Branch Manager of English Bank, instead the petitioner has been charged with mala fide intention. The petitioner has not committed any wrong or misconduct and during course of enquiry no evidence has been found that he violated any Regulations of the Uttar Bihar Gramin Bank (Officers & Employees) Service Regulation, 2010



or its amending Regulation 2013. The charges against the petitioner have been shown to have been proved, without any evidence.

10. The learned counsel for the petitioner further submits that the Enquiry Officer/Authority failed to consider the reply filed by the petitioner and on his own proceeded to prove the charges against the petitioner, with malafide intention. The defense taken by the petitioner in his show cause reply was not considered by the Enquiry Officer, and without considering the same he proceeded to prove the charges levelled against the petitioner. Further the copy of the written brief of the Presenting Officer was not provided to the petitioner and the Enquiry Officer, only on the basis of the written brief of the Presenting Officer, came to the conclusion that the charges against the petitioner are proved. Even the defense documents were not given to the petitioner. The Enquiry Officer submitted his report without considering the points raised by the petitioner in his written brief and therefore the enquiry report is defective and perverse. Even the disciplinary authority failed to consider the case of the petitioner and his defence, without proper application of mind and failed to consider the points taken by the petitioner in his reply, which amounts to violation of



principles of natural justice. The disciplinary authority without considering the written brief of the petitioner proceeded to punish the petitioner, for the illegal act of the Branch Manager of the English Branch and awarded the punishment of reduction of his time scale to initial stage in time scale of pay till his retirement under the Regulations of the Bank, which is perverse in the eyes of law.

11. The learned counsel for the petitioner finally submits that the appeal of the petitioner has been rejected by the appellate authority without even considering the points taken by the petitioner in his Memo of appeal and without application of mind, therefore, the appellate order passed by the appellate authority is illegal and perverse. The petitioner, before passing of the order by the appellate authority superannuated on 31.01.2021.

12. Per contra, the learned counsel for the respondent- Bank submits that the petitioner, while posted as Branch Manager in Jagdishpur Branch allowed the transaction in 04 CCGEN account of another Branch, despite being aware of the fact that loan account (CCGEN) of another Branch is being debited, did not check the past transactions history of the borrowers in the said 04 CCGEN account, which resulted in



transaction Rs. 22 lakhs from the said account. **These Limits in loan accounts were available to the dilution of MMDC accounts kept as primary security.** He transferred the said account to the saving bank account No. 1002221010002592 of the borrower, maintained in the Jagdishpur Branch. Petitioner did not bother to check that the average minimum balance in the saving Account No. 1002221010002592 was not more than Rs. 9 thousand since September 2011 and the customer has only one transaction in the last six years, prior to the said transaction, but he deliberately ignored this fact and allowed the transfer of a huge sum to the tune of Rs. 22 lakhs in this account, which proves his deliberate act of negligence. The said amount of Rs. 22 lakhs was subsequently withdraw by the customer on three different dates.

13. The learned counsel for the respondent-Bank further submit that the above mentioned act of the petitioner was detrimental to the interest of the bank and has caused financial loss to the tune of Rs. 22 lakhs, plus applicable interest. The petitioner was aware that the account was not of his Branch, even then he permitted the said transaction and rightly so was issued show cause notice. After show cause notice, reply submitted by the petitioner and the same was duly



considered, but was found to be unsatisfactory, therefore, the departmental proceeding was initiated against him. The charge-sheet was issued for the charges levelled against him, which constitutes misconduct under the Regulations 18 and 20 of the Uttar Bihar Gramin Bank (Officers & Employees) Service Regulation 2010, read with Uttar Bihar Gramin Bank Service (Amendment Regulations 2013), attracting penalty under Regulation 39. The petitioner was duly informed that he should either admit or deny each article of charge separately and he will be given full opportunity during the enquiry to inspect the documents, which will be filed by the management, along with an opportunity to lead evidence, documentary as well as oral. During enquiry which continued for eight sittings, the Presenting Officer produced 17 documents/papers as documentary evidence in support of the charges. The defense side produced 21 exhibit in its favour during the departmental enquiry to disapprove the charge and thereafter the Presenting officer submitted his written brief before the Enquiry Officer, copy of which was duly served upon the petitioner.

14. The learned counsel for the respondent-Bank further submit that the petitioner submitted his written brief vide Letter dated 28.01.2021 and after considering the documents on



record, the written brief submitted by the Presenting Officer and the written brief and submitted by the petitioner, the Enquiry Officer submitted his enquiry report before the disciplinary authority on 02.02.2021, wherein he found the charge to be proved against the petitioner. The report of the Enquiry Officer was provided to the petitioner and he was directed to submit his reply to the report of the Enquiry Officer. The petitioner submitted his defense/submission on the findings of the Enquiry Officer on 21.02.2021. After considering the evidences on record in the departmental proceeding, including the written arguments/ briefs filed on behalf of the Presenting Officer and the petitioner, the disciplinary authority found that the procedural adopted by the Enquiry Officer for holding the Enquiry proper and justified, wherein petitioner was given every opportunity to prove his innocence, proceeded to award the punishment to the petitioner. Being aggrieved with the order passed by the disciplinary authority, the petitioner preferred statutory appeal before the appellate authority and after considering the points raised by the petitioner in his defense in the Memo of appeal, the appellate authority did not find any error in the order passed by the disciplinary authority. The appellate authority concurred with the findings of the



disciplinary authority and proceeded to reject the appeal filed by the petitioner.

15. The learned counsel for the petitioner refers to and relies on a judgment dated 04.04.2018 passed in ***C.W.J.C, No. 17012 of 2014 Ramendra Prasad Gauro Vs. Chairman Uttar Bihar Gramin Bank*** whereby a Co-ordinate Bench of this Court in paragraphs No. 19, 20, 21 and 22 has held as follows:

“19. The learned counsel for the petitioner has further submitted that the order passed by the Disciplinary Authority, as contained in Annexure-2, in which the Disciplinary Authority has not considered the reply of petitioner against the finding of enquiry officer, as it is reflected from the order passed by the Disciplinary Authority. The Disciplinary Authority is the punishing authority and it is his decision based upon the enquiry report and reply submitted by delinquent is to be considered and to pass a final order in which he should consider the reply of petitioner assailing the finding of Enquiry Officer. However, in the order dated 02.05.2012 there is nothing to suggest that he has considered the reply of petitioner and simply has agreed with the findings of Enquiry Officer and has passed the order of punishment, as such, the order passed by Disciplinary Authority is not



sustainable and accordingly is set aside.

20. This court in case of Hassan Muzahid Versus Bihar State Electricity Board and others since reported in 2015 (4) PLJR (HC) as in paragraph No. 4 and 7 has held as following:-

"4 The principal ground urged by the petitioner was that the Disciplinary Authority did not take into account, any of the grounds pleaded by him in the explanation submitted to the second show cause notice, and that the order of dismissal is bereft of any reasons. These grounds weighed with the learned Single Judge and accordingly, he allowed the writ petition and has set aside the order of punishment. It was left open to the petitioner, to submit an explanation, and the Disciplinary Authority was directed to pass order afresh. The learned Single Judge further held that the petitioner shall not be entitled to back wages for a period of six years, even if the disciplinary proceedings are dropped against him. This was on the ground that there was delay in pursuing the remedy."

"7. The petitioner was dismissed by the Disciplinary Authority, after conducting enquiry. The only flaw pointed out by the petitioner and the one that weighed with the learned Single Judge, is that the Disciplinary Authority did not furnish any reason in support of his conclusions. It needs hardly any mention that the issuance of second show cause has a definite purpose to serve and that is the only occasion, or avenue where the delinquent employee can make an all to convince the Disciplinary Authority that the findings by the Enquiry Officer are not correct. He can also impress upon the Disciplinary Authority that the proposed punishment need not be awarded



and he can plead extenuating circumstances. Since, the order passed by the Disciplinary Authority was passed without taking into account, the grounds pleaded by the delinquent employee in his reply to the second show cause, it certainly turns to be defective. Time and again, the Hon'ble Supreme Court held that such exercise tends to be violative of one of the facets of the principles of natural justice and the opportunity given to an employee would be reduced to empty formality. We, therefore, do not find any basis to interfere with the view taken by the learned Single Judge in this behalf."

21. Similarly, the appellate authority has also not considered the grounds of appeal preferred by petitioner against the finding of Enquiry Officer and without considering the grounds of appeal has dismissed the appeal of petitioner.

22. The Apex Court in case of Chairman Disciplinary Authority Rani Laxmi Bai Kshetriya Gramin Bank Versus Jagdish Sharan Varshney and others in paragraph No. 5 has held as following:-

"5. In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not mean that the order of affirmation need not contain any reasons whatsoever In fact, the said decision in Prabhu Dayal Grover case has itself stated that the appellate order should disclose application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need



not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority."

16. The learned counsel for the petitioner refers to and relies on a judgment dated 20.05.2022 in ***L.P.A. No. 1434 of 2018, The chairman, Uttar Bihar Gramin Bank and Others Vs. Ramendra Prasad Gauro*** wherein the Hon'ble Division Bench in paragraphs Nos. 7 and 8 has held as follows:

"7. We have perused the records of the Writ Court and find that the disciplinary authority, while passing the order of punishment, has failed to consider, much less discuss the reply of the petitioner submitted against the findings of the Inquiry Officer and the same is the situation as far as the order passed by the Appellate Authority is concerned, inasmuch as the Appellate Authority has also not considered any of the grounds raised by the respondent in support of his Appeal and has illegally and arbitrarily rejected the appeal filed by the respondent. On such grounds, the learned Single Judge, by the impugned order dated 04.04.2018, has set aside the order of punishment as also the appellate order, finding the same to have been passed merely on the basis of the case put forth by the



appellants herein, dehors the principles of law laid down in a catena of judgments and further holding the same to have not considered the defense put forth by the respondent herein. This aspect of the matter has not been contested by the appellants herein. We thus find that since the employer(s) who are the appellants herein, have admittedly acted in gross violation of the statutory provisions and principles of natural justice as also have not at all considered the defense put forth by the respondent herein, the same has resulted in passing of an illegal order, terminating the services of the respondent herein in a wrongful manner.

*8 We, therefore, find that the present case is a case of gross injustice meted out to the respondent herein by the appellants and the materials on record sufficiently demonstrates that the orders passed, both by the disciplinary authority as also by the appellate authority are not sustainable in the eyes of law, as has been held by the learned Single Judge in the impugned order dated 04.04.2018. In such view of the matter, we find that the respondent herein is at least entitled to 50% back wages in light of the principles laid down by the Hon'ble Apex Court in this regard in the case of **Deepali Gundu Surwase (supra)**. It would also suffice to state that the*



*respondent herein has been forced to go through the gamut of litigation, thrust upon him by the appellants herein and now after such a protracted time and energy consuming litigation, during which period, the respondent herein, who has somehow managed to sustain himself, is ultimately told that he would be denied back wages, the same would amount to penalizing him for no fault of his. It would be unfair to the appellants if we do not deal with the judgment referred to by them, rendered in the case of **B. Karunakar and others (supra)**. In this regard, it would suffice to state that the said Judgment deals with a situation where the report of the Inquiry Officer was not furnished to the delinquent and is thus not only distinguishable in the facts and circumstances of the present case but also does not deal with a situation as the present one. On the contrary we find that the present case stands covered by the principle of law laid down by the Hon'ble Apex Court in its subsequent judgments, especially the one rendered in the case of **Deepali Gundu Surwase (supra)**.”*

17. The learned counsel for the Bank refers to and relies on a judgment of the Hon'ble Supreme Court of India reported in **(2005) 7 SCC 435 State Bank of India & Ors. Vs.**



Bela Bagchi & Ors., wherein in paragraph No. 15 it has been held as follows:-

“15. A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik³, it is no defence available to say that there was no loss or profit which resulted in the case, when the officer/employee acted without authority. The very discipline of an organisation more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of loss is



also sans substance.”

18. The learned counsel for the Bank further refers to and relies on a judgment of the Hon'ble Supreme Court of India reported in **(2003) 3 SCC 605 Regional Manager, U.P. SRTC, and Others Vs. Hotilal and another** wherein in paragraph No. 10, it has been held as follows:

“10.It needs to be emphasized that the court or tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment was not commensurate with the proved charges. As has been highlighted in several cases to which reference has been made above, the scope for interference is very limited and restricted to exceptional cases in the indicated circumstances. Unfortunately, in the present case as the quoted extracts of the High Court's order would go to show, no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Reasons are live links between the mind of the decision taken to the controversy in question and the decision or conclusion arrived at. Failure to give reasons amounts to denial of justice. [See Alexander Machinery (Dudley) Ltd. v. Crabtree²⁰]. A mere statement that it is disproportionate would not suffice. A party



appearing before a court, as to what it is that the court is addressing its mind. It is not only the amount involved but the mental set-up, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is proportionate or disproportionate. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding the order of dismissal.”

19. The learned counsel for the Bank further relies on a judgment of the Hon’ble Supreme Court of India reported in **(2006) 2 SCC 235 TNCs Corporation Ltd. and Others Vs. K. Meerabai** wherein in paragraph No. 29 it has been held has



follows:-

“29. Mr. Francis also submitted that a sum of Rs. 34,436.85 being 5% of the total loss of Rs. 6,88,737.12 is sought to be recovered from the respondent and that the present departmental proceedings is the only known allegation against the respondent and there was no such allegation earlier and, therefore, a lenient view should be taken by this Court and relief prayed for by both the parties can be suitably moulded by this Court. We are unable to agree with the above submission which, in our opinion, has no force. The scope of judicial review is very limited. Sympathy or generosity as a factor is impermissible. In our view, loss of confidence is the primary factor and not the amount of money misappropriated. In the instant case, the respondent employee is found guilty of misappropriating the Corporation funds. There is nothing wrong in the Corporation losing confidence or faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering therefor with the quantum of punishment awarded by the disciplinary and Appellate Authority.”

20. The learned counsel for the respondent-Bank



further relies on a judgment reported in **(2018) 3 PLJR 543** passed by a Hon'ble Division Bench of this Court wherein in paragraph Nos. 6, 7 and 8, it has been held as follows:-

“6. However, learned Senior Counsel Mr. Naresh Malhotra appearing for the Allahabad Bank lays emphasis on the fact that the Disciplinary Authority has not differed with the report of the Enquiry Officer, hence, no second show cause was required under the Allahabad Bank Officer Employees' (Discipline and Appeal) Regulations, 1976. He submits that out of the four charges three were proved by the Enquiry Officer and with regard to article 1, which related to two points, one point was proved and the other was partly proved, which was only with regard to impersonation of one Baiju Singh/Baijnath Singh in the documents, but the loan having been granted recklessly was proved. He refers to the relevant extract of the order of the Disciplinary Authority to show that the Enquiry Officer found all the charges proved and one point, which was partly proved with regard to article 1 of the charges, was that impersonation was not substantiated. Relevant extract of the order of the Disciplinary Authority is reproduced hereinbelow:

“The Enquiry Officer has found 03 Articles proved while one is held partly proved.



After a careful perusal of the entire proceedings of the enquiry and point-to-point analysis in the enquiry report, I agree with the findings of the enquiry Officer. The EO has held partly proved the charge that Sri. B.S. Saumitra sanctioned/disbursed two cash credit limits wherein the guarantors are impersonator. However, in one case, the EO has held the element partly proved as because no management document was produced to substantiate the impersonation. However, it is observed that there is enough circumstantial evidence in the deposition of the witness to substantiate the charge. Sri. Binod Singh Saumitra sanctioned large number of cash credit loans recklessly violating the guidelines of the Bank. The charge is held proved in 14 illustrative loan accounts out of 15. The aggregate exposure of the bank is more than 124.50 lac in these illustrative loan accounts. Sri. Saumitra has sanctioned loans on the basis of forged documents submitted by the borrowers without any verification thereof. It has been held proved that Sri. Saumitra sanctioned two cash credit limits to the same borrowers in order to provide him undue financial accommodation of Rs. 7.00 lac in an irregular manner. Both the units are closed and the Bank's funds are at stake. It has also been established that Sri. Saumitra sanctioned three loans aggregating Rs. 51.00 lacs under AI Property scheme of the Bank irregularly violating the stipulated guidelines of the Bank. Most of the loan accounts sanctioned irregularly have since turned bad/NPA.”

7. So far as allegation of bias against the



Enquiry Officer is concerned, he submits that the appellant did not approach the Disciplinary Authority against the appointment of Enquiry Officer, who had the competence to decide such objection instead he raised such plea before the Enquiry Officer himself. Even otherwise, documents M-33/1 and M-33/2 were just counter signatures of the said Mr. C.K. Pandey on the I.T. returns, which was hardly of any consequence and considering the magnitude of the charges and that there is no violation of principles of natural justice nor any prejudice has been caused to the appellant, the punishment order has rightly not been interfered with by the learned Single Judge.

8. Hence, considering the order of the learned Single Judge in entirety that the finding arrived at by the Enquiry Officer finding the appellant guilty and the Disciplinary Authority thereafter imposing punishment of removal from service not to be perverse and that principle of natural justice has been followed, calls for no interference. We find no error in the order dated 27.03.2014, passed by the learned Single Judge.”

Consideration

21. Having heard the learned counsel for the parties and after going through the materials available on records, it appears that while the petitioner was posted at Jagdishpur Branch of the Uttar Bihar Gramin Bank, he did not take care to check past transaction history of the borrowers, in 4



CCGEN account and allowed the transaction of Rs. 22 lakhs from the said account, although accounts were not of his branch, rather the same were of English Branch of the Bank. In the departmental proceeding, he was given due opportunity to place his defence and his written explanation, which he duly filed and even the defence statement/brief was provided to the petitioner, along with the enquiry report, therefore, the contention of the petitioner that he was not given with the defence brief by the disciplinary authority, is not correct. After a thorough enquiry, the Enquiry Officer found the charges to be levelled against the petitioner to be proved and he was given every opportunity by the disciplinary authority, before inflicting the order of punishment. It is not in dispute that the cheques, which were presented before the petitioner, whereof another Branch and it was his duty to verify from the other branch, since the account holder was having account in the English Branch of the Bank, therefore, it was incumbent upon him to verify from the English Branch about the actual position of the CCGEN account and it is a regular practice in the Banking system, that if the cheques are of high denomination, the customer/Bank is asked to give the consent/verify before making such clearance. The petitioner did not bothered to ask about the cheques from his counter- part



in the English Branch. So far the judgments relied by the petitioner are concerned, with regard to non-consideration of the defence submitted by the delinquent before the disciplinary authority and the punishment order passed only on the basis of the enquiry report are concerned, in the present case, disciplinary authority, after considering each and every aspect has passed the order of punishment. The petitioner did not check the past history of the borrowers of the said CCGEN account, which he could have checked from his own branch also and he did not check the average minimum balance in the saving bank account, which is said to have a balance of only Rs. 9,000/- since September 2011 and the customer did only one transaction in the last six years, prior to debiting Rs. 22 lakhs from the said account. Due to negligence on the part of the petitioner the Bank was put to a loss of Rs. 22 lakhs, along with the applicable interest thereupon. A Bank Officer is required to exercise higher degree of honesty and integrity, since, he deals with the money of the depositors and the customers and he is required to take all possible steps to protect the interest of the Bank. The very discipline of an organization, more particularly a bank is dependent upon each of its Officers and the Officers acting and operating within their allotted sphere. Acting beyond ones



authority is by itself a breach of discipline and is a misconduct. The charge against the petitioner was not casual in nature, rather the same was serious. Further due to the act of the petitioner the Bank suffered loss to the tune of Rs. 22 lakhs, with applicable interest and that amounts to loss of confidence i.e. the primary factor and not the amount misappropriated. In case of the petitioner he deliberately, without verifying the records from the English Branch of the Bank, where the said accounts were operating, proceeded to clear the said cheques, to the tune of Rs. 22 lakhs, which shows his negligence towards his duties. Accordingly, I do not find any reason to interfere with the order passed by the disciplinary authority or the appellate authority.

22. The present writ petition is dismissed.

23. Pending applications, if any, shall also stand disposed of.

(Ritesh Kumar, J)

krishnakant/-

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