
(2014) 01 PAT CK 0121
In the Patna High Court
Case No : CWJC No. 17811 of 2013

Alok Kumar

APPELLANT

Vs

Madhya Bihar Gramin Bank and Others

RESPONDENT

Date of Decision : 02-01-2014

Acts Referred:

Citation : (2015) 1 PLJR 122

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Naresh Dikshit, Advocates for the Appellant; Mahesh Narayan Parbat, Advocates for the Respondent

Judgement

Chakradhari Sharan Singh, J.—The petitioner seeks quashing of the letter dated 16.8.2013 issued under the signature of General Manager, Madhya Bihar Gramin Bank, Patna addressed to the petitioner communicating dismissal of the appeal by the appellate authority (Board) in its meeting dated 27.6.2013. The appeal was preferred by the petitioner against the order of punishment of removal from service dated 4.1.2013. The petitioner was working as Officer Grade-II, under Madhya Bihar Gramin Bank, Patna. Against the said order of punishment, the petitioner had preferred statutory appeal which is said to have been dismissed by the appellate authority i.e. the Board, which has been communicated through the impugned letter. The decision of the Board, which is the appellate order as contained in the impugned letter, reads thus:--

"The Board applied its mind and after due deliberation on the grounds of the appeal at length and also in the light of points dealt by the Disciplinary Authority in the Order of Punishment dated 4.1.2013, did not find anything new which required intervention into the decision of the Disciplinary Authority. Hence, the Board upheld the punishment of "Removal from Service which shall not be a disqualification for future employment" inflicted upon Sri Alok Kumar."

2. Learned counsel appearing on behalf of the petitioner contends that it was

incumbent upon the appellate authority to have considered the grounds of appeal and applied mind and that such application of mind must be reflected in the appellate order. He submits that the impugned decision does not reflect application of mind by the appellate authority on the grounds taken in the memo appeal. He further submits that the appellate authority wrongly rejected the petitioner's appeal on erroneous consideration that there was nothing new brought by the petitioner, for the appellate authority to consider on the appeal preferred by the petitioner.

3. He submits that the appellate authority was required to consider the petitioner's statutory appeal on the basis of materials already available on record and the petitioner was not required to make out a new case or bring some new facts at appellate stage for the appellate authority to interfere with the impugned order.

4. Mr. M.N. Prabat, learned counsel appearing on behalf of the Bank, on the other hand, has submitted referring to the contents of the impugned letter that there has been an application of mind and the Board after due deliberation rejected the petitioner's appeal against the order of punishment.

5. I do find force in the submission made on behalf of the petitioner that the impugned appellate order is non-speaking. An appellate authority, considering a challenge to the order of punishment, functions as quasi-judicial authority and it is obligatory upon him to assign reasons in the order itself so as to reflect that there has been application of mind. Failure to do so would amount to violation of principles of natural justice. I also find force in the submission that an appellant is not required to bring any new fact before the appellate authority in support of his grounds. The appellate authority was required to apply its own mind on the material already available on the records of the disciplinary proceeding; on the grounds taken in the memo-appeal filed by the petitioner.

6. In view of the above, the impugned order/decision of the appellate authority as contained in letter dated 16.8.2013 is quashed. The Respondent-Bank is directed to pass a fresh order dealing with the grounds of the petitioner in his memo of appeal. The appellate authority must pass the order afresh pursuant to this order within a maximum period of six months from the date of the receipt/communication of this order. This application is allowed with the observation as above.