
(2000) 08 PAT CK 0061
In the Patna High Court
Case No : C.W.J.C. No. 5760 of 1999

Arvind Kumar

APPELLANT

Vs

Nalanda Gramin Bank and Others

RESPONDENT

Date of Decision : 24-08-2000

Acts Referred:

Citation : (2001) 49 BLJR 357 : (2001) 88 FLR 1090 : (2001) 2 LLJ 635

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Ganesh Prasad Singh and Sanjay Kumar, for the Appellant; Sunil Kumar Singh and Ratan Kumar, for the Respondent

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the petitioner has assailed the validity of the order of his dismissal, contained in Annexure 4, passed by the disciplinary authority as well as the order of the appellate authority, contained in Annexure 5, affirming the aforementioned order of dismissal and rejecting his appeal.

2. Learned counsel for the petitioner has, inter alia, submitted that the petitioner has been denied the opportunity of being heard at the appellate stage inasmuch as the appellate authority passed the impugned order (Annexure 5) suo motu without any notice to the petitioner, which has been held to be denial of reasonable opportunity. In this regard, he relied on a decision of this Court in the case of Jeevan Kumar Jayaswal Vs. The New India Assurance Co. Ltd. and Others, . It is submitted that in the said case the learned single Judge has relied upon a decision of the Apex Court in the case of Ram Chander Vs. Union of India (UOI) and Others, . Learned counsel has submitted that there are other infirmities in the conduct of the proceeding such as despite request for change of inquiry officer, the same inquiry officer was allowed to continue the inquiry; the enquiry officer submitted an enquiry report with respect to four separate enquiries and the disciplinary authority has passed the order on the basis of the

said report, which is contrary to the principle decided by this Court in the case of Prem Prakash Arya Vs. The Bihar State Co-operative Land Development Bank Limited and Others, . It has also been submitted by him that the impugned order of disciplinary authority does not deal with any evidence to prove the charge. However, learned counsel for the petitioner has submitted that without going into the other question, the writ petition can succeed on the sole ground of denial of opportunity of personal hearing at the appellate stage. Learned counsel appearing for the respondent-Bank has not been able to defend the order of the appellate authority which has been passed without giving any opportunity of being heard to the petitioner.

3. Under such circumstance, it has rightly been submitted by the learned counsel for the parties that after quashing the order of the appellate authority, the matter may be remitted back to the appellate authority for fresh consideration and disposal, in accordance with law.

4. Accordingly, the writ petition is allowed, the impugned order of the appellate authority, contained in Annexure 5, is quashed and the matter is remitted back to the appellate authority for fresh consideration and disposal of the appeal of the petitioner, in accordance with law. The petitioner will be at liberty to raise any other question available to him in law.