
(2008) 08 PAT CK 0146
In the Patna High Court
Case No : CWJC No. 3144 of 2006

Awadhesh Kumar

APPELLANT

Vs

The State Bank of India and Others

RESPONDENT

Date of Decision : 05-08-2008

Acts Referred:

Citation : (2009) 1 PLJR 209

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : A.K. Singh and Kumar Parveen, for the Appellant; K.K. Sinha and S.K. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kr. Tripathi, J.—Heard learned counsel for the parties. Petitioner was posted as a clerk-cum-cashier at Patory Branch of State Bank of India. A fraud was detected in the Current Account No. SIB-231 of M/s Gupta Traders. On a complaint a preliminary enquiry was held and the petitioner was placed under suspension vide order dated 13.9.2002 contained in Annexure-1. The respondent authority thereafter decided to hold a departmental enquiry against the petitioner and a set of five charges were drawn up against him. The charges are available on record as Annexure-2 to the writ application. The enquiry officer held the enquiry and found the petitioner guilty of four charges, to be correct and proved and fifth charge with regard to misbehaviour and attending office in drunken stage to be partly proved. Based on the findings of the enquiry officer the disciplinary authority decided to impose punishment of dismissal without notice in terms of the punishment envisaged in paragraph 21(4)(a) of VIth Bipartite Settlement dated 14.2.1995 with subsequent modification of memorandum of settlement dated 10.4.2002.

2. Petitioner invoked the right of appeal by filing a detailed memorandum of appeal as would be evident from Annexure-5. But from perusal of Annexure-6 which is the order passed by the appellate authority it seems the explanation

offered by the petitioner in the memo of appeal did not cut much ice. The appellate authority thereafter by providing reasons for agreeing with the order of disciplinary authority as well as taking into consideration the points urged by the petitioner confirmed or affirmed the order of punishment. The appeal therefore was rejected.

3. Petitioner is before this Court now challenging the order of punishment by the disciplinary authority contained in Annexure-4 and the order of the appellate authority contained in Annexure-6. He wants quashing of the orders impugned on several grounds. He submits that charge-sheet did not contain the list of documents or list of witnesses. He was not provided with the documents which were relied on behalf of the prosecution. The findings are based on conjecture and surmises. The enquiry report was not supplied to him earlier and the most of the allegations which were leveled against the petitioner would be a case of collective failure rather than individual one.

4. The assertion of the petitioner has been vehemently denied by the respondents. In the counter affidavit they have given the details of the events. The way the enquiry has been conducted, the findings and that petitioner was supplied a copy of enquiry report before imposition of punishment by the disciplinary authority. They have brought materials on record with the counter affidavit in support of the assertions. They contend that most of the objections which have been raised by the petitioner is more imaginary rather than actual state of affairs. There is nothing to show that the enquiry was not conducted in a proper manner or that the petitioner was prejudiced at any point of time by non-supply of so-called documents. If there would have been an occasion petitioner would have brought on record his objections before the enquiry officer.

5. Submission made on behalf of the respondents does merit some consideration because the Court does find that on many a occasion objections and submissions are made with regard to the departmental enquiry more as a matter of routine than the actual state of affairs. A blanket statement of violation of principle of natural justice or prejudice by certain conduct of the disciplinary authority including the enquiry officer cannot be accepted on the face value unless it is specifically pleaded or corroborated. Besides assertion made on behalf of the petitioner the above observation made by the Court holds true in the present case too. The counter affidavit on behalf of the respondents is not a baled denial and states the factual position on every count and replies every assertion made in the writ application. The Court does feel that the challenge made to the orders of punishment are more made than made out.

6. The case of the petitioner could have been considered in a sympathetic manner considering the fact that too early in his life order of dismissal has come to be passed but then looking at the charges, conduct of the petitioner, the findings and also keeping in mind that banking is a sensitive industry where no bank can afford any misdemeanor of its employee and bring a bad name, not much it can be done by way of interference in the punishment orders. After all it

is also true that the petitioner has put himself in the present predicament by his own conduct which has been established in the enquiry. The impugned order, therefore, do not require any interference. This writ application is accordingly dismissed.