(2001) 02 PAT CK 0088

In the Patna High Court

Case No : C.W.J.C. No. 9230 of 1996

Dhami Dhar Singh APPELLANT

Vs

The Central Bank of India and Others RESPONDENT

Date of Decision : 26-02-2001

Acts Referred:

Citation : (2001) 3 PLJR 84

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Pandit Jee Pandey and Rita Kumari No. 1, for the Appellant; Prashant Vedasen, for Bank, for the Respondent

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the Petitioner has assailed the validity of the order contained in Annexures 10 and 12 whereby and whereunder he has been dismissed from service and the same has been affirmed by the appellate authority.

2. In short, the relevant facts are that the Petitioner initially joined the services of Respondent Bank as Class IV employee on 1.5.1969. He was only middle pass but he claims to have served the Respondent Bank with his full ability and sincerity and also to the full satisfaction of his superior authorities. Under the rules, he was allowed to appear at the departmental examination and on his success in November, 1979, he Was promoted and posted as Cashier-cum-Godown Keeper of Respondent Bank at Laheriasarai. Subsequently, the Petitioner, was transferred to Chicharibuzurg Branch of Respondent Bank in the district of Madhubani as Head Cashier in June, 1991. In November, 1992, the then Branch Manager of the said Branch was transferred and the Petitioner being Head Cashier was directed to take charge of Branch Manager till the posting of regular Branch Manager. It is claimed that the, Petitioner having no knowledge about the Managerial and Accounting Works, showed his inability, but the Regional Manager, Darbhanga, Respondent No. 4 had assured for posting of

regular Branch Manager in a few days and directed, him to run the Branch till the alternative arrangement.

3. On 2.12.1993, the Petitioner received a memorandum bearing no, RO/PRS/ DAW/202/93-94/422 dated 26/11.1993 issued by Respondent No. 4, communicating that he had misappropriated some amount from various accounts of Home Saving Safe and Recurring Deposit. The Petitioner was also placed under suspension with immediate effect. Subsequently, he was served with chargesheet for the acts of omission and commission by him, which was highly prejudicial to the interest of the Bank and fell under gross misconduct within the meaning of Clause 19, 5(j) of Bipartite Settlement. The Petitioner submitted a show cause on 22.3.1994 in which he admitted that there might be possibility of any omission and, human wrong and receipts of amount'' after closing the cash (due to work pressure) the same might not have been entered in ledger book.-A departmental; enquiry was initiated in respect to the said charges vide chargesheet dated 10.5.1994 alleging therein that he had received the amount in different Home Saving Safe Accounts and Recurring Deposit accounts from the respective account holders and granted duly stamped sand signed receipts, made entries in their respective pass-books, but did not make entries in Scroll-Book and respective ledgers and as such defrauded a total amount of Rs. 15,500/- which caused "pecuniary loss to the Bank. The other charges levelled against him was with respect to the belated entries, non sanction of Leave Encashment and non payment of Provident Fund Loan. The departmental inquiry initiated against him was concluded on 25.7.1995.

4. Respondent No. 5 finally submitted Ibis enquiry report (Annexure-7) on 26.8.1995 in which he has found that charge Nos. 3 and 4 were admitted by the Petitioner and charge Nos. 1 and 2 as proved. The Disciplinary Authority on consideration of the enquiry report and the materials available on record held the Petitioner guilty and proposed for imposition of punishment as follows:

Charge No. 1--dismissal from service.

Charge No. 2--reduction by one stage.

Charge No. 3--reduction by one, stage.

Charge No. 4--dismissal from service and in the concluding part he proposed for the punishment/dismissal from service.

5. The Petitioner was required to submit his further explanation, if any as against the proposed punishment by 4.11.1995 and also to appear personally before the Disciplinary Authority on 4.11.1995. Thereafter, the final order of punishment was passed by the Disciplinary Authority which has been impugned Annexure-10. The Petitioner filed an appeal against the said order vide Annexure-11 which has been rejected by the Appellate authority vide impugned order contained in Annexure-12. The appellate authority has affirmed the order of punishment passed by the Disciplinary Authority.

6. A counter affidavit has been filed on behalf of Respondent Bank in which it is stated that according to volume of business, posting of staff at the Chicharibuzurg Branch was sufficient and at no point of time the Petitioner had complained to his higher authorities regarding the shortage of staff in the Branch. It is further stated that the Petitioner was never forced by the Respondents to take over the charge of Branch Manager of the Branch. It is stated that the Petitioner was Head Cashier in the Branch and in the absence of regular Branch Manager and he being the next to the Branch Manager, assumed the charge of the Branch as per the rule of the Bank and without any pressure from the higher authorities. The Petitioner was paid officiating allowances for this, to which he never objected. In paragraph-22 of the counter affidavit, it is stated that while the Petitioner was posted at Samastipur Branch of the Bank as Assistant Cashier he entered into collusion with the then Branch Manager Shri B.N. Sinha now dismissed from Bank''s service for irregularities in advances. The Petitioner was under suspension from 21.4.1981 to 21.11.1984 for his omissions and commissions. However, no departmental enquiry was conducted at that time and the Petitioner was warned on 21.1.1988. In paragraph-26, it is stated that the Petitioner had defrauded various amounts of cash deposits received from Account holders with malafide intention which is very grave and as such the Petitioner was suspended and a regular departmental enquiry was conducted against him in which he was provided full opportunity to produce and lead evidence in his defence and after the submission of enquiry report by the Enquiry Officer, the Petitioner was heard at length by Respondent No. 4 and the order of dismissal was passed against him.

7. In reply to the statement made in paragraph-22 of the counter affidavit, it is stated that while the Petitioner was posted at Dalsinghsarai, the Respondents had tried to implicate him falsely but they did not succeed and after due investigation the Petitioner was honourably to honourably exonerated.

8. Learned Counsel for the Petitioner has not argued anything on merit of the conduct of the enquiry. He however submitted that this Court keeping in view long tenure of service rendered by the Petitioner the nature of charge in which only meagre amount is involved may consider the case of the Petitioner sympathetically and remit the matter back to the Disciplinary Authority for reconsideration on. the question of quantum of punishment. According to the learned Counsel for the Petitioner, the Petitioner is ready to deposit the shortage of amount which is a meagre one to meet the loss if any caused to the Bank if the order of dismissal is converted into the order of compulsory retirement and he would also not claim payment of any remaining subsistence allowance. This matter was earlier, heard and adjourned on the request of the learned Counsel for the Bank to take instruction in regard to quantum of punishment from the Respondent Bank.

9. Mr. Vedasen, learned Counsel appearing for the Bank on oral instruction from the authority of the Bank submitted that the charge against the Petitioner is

serious as it is with respect to his failure to deposit the money received from the Account holders. As such, according to instruction received the Petitioner does not deserve any lenient view and his said action cannot be condoned. The efficiency of the Bank in fact depends on trust and honesty of the employee and the customers confidence and faith is also dependent on it and if in the functioning of the Bank and such actions are condoned then the Bank may lose customers. This Court finds substance in the submission of the learned Counsel for the Bank. In view of the fact that the charge, also involved about the financial irregularities committed by the Petitioner and it has been proved, this Court does not find it to be a fit case for interference with the quantum of punishment imposed by Respondent Bank.

10. Accordingly, the writ petition is dismissed. However, in the facts and circumstances of the case, there, shall be no order as to costs.

