
(2004) 08 PAT CK 0011
In the Patna High Court
Case No : C.W.J.C. No. 10121/2003

Gorakh Nath Singh

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 26-08-2004

Acts Referred:

Citation : (2004) 08 PAT CK 0011

Final Decision : Dismissed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated January 3, 2001 (Annexure-1) whereby the petitioner has been visited with the penalty of dismissal from service as a measure of punishment after the departmental inquiry. Further prayer made by the petitioner is to quash the order dated May 16, 2002 (Annexure-1) whereby the appeal preferred against the aforesaid order has been dismissed.

2. Short facts giving rise to the present application are that the petitioner at the relevant time was posted as the Manager of the Buxar branch of the Bank of India. A departmental proceeding was initiated against him and he was served with the following charges.

Charge No. I.

(a) That, by abusing his official position, he unduly accommodated certain customers causing wrongful gains to the borrowers, completely disregarding the normal care/precautions required to be taken by the Bank in as much as:

(b) He sanctioned /enhanced cash credit limits in the accounts of Jai Mata Di Filter Industries, Sita Tyres, Dilip Tractors, Mahendra Glass Stores, Kisan Tyres and Rai Int Udyog, without justification, ignoring the very low turnover in the accounts.

(c) Out of the firms as mentioned above Sita Tyres, Dilip Tractors, Jai Mata Di Filter Industries were found to be non- existing. In the account of Dilip Tractors,

the proprietrix Bhagirathi Devi who is 60 years old was described as young and energetic lady in the proposal. The proposal was prepared in the handwriting of Mr. D.R. Mali, Officer who joined the Buxar Branch after six months of disbursement.

(d) He failed to supervise the conduct of the accounts and he did not arrange to conduct post sanction inspections in the a/cs of Jai Mata Di Filter Industries, Raja Motors, Dilip Tractors, Sreedhar Sharma (Housing Loan), Sheojee Tiwary, Mahendra Glass Stores, Kisan Tyres, Rai Int Udyog, Buxar Automobiles and Shashi Enterprises.

(e) The proposals in the accounts of Jai Mata Di Filters Industries, Dilip Tractors, Kisan Tyres, and Raja Motors were not found signed by the Manager/Asst. Manager. No dues certificates from other banks were not obtained and some of the borrowers were the defaulters of the Punjab National Bank.

(f) Most of the accounts as mentioned hereinabove have become NPA within a short span of time. Some of the accounts after having NPA, interest was continued to be charged contrary to the guidelines.

(g) Limits were sanctioned to the firms/individuals having activity outside the service area in the account of Chaitanya Singh, Ranjit Singh, Sheojee Tiwary, Sanjay Kumar, Dharmendra Kumar Upadhyay and Shashi Enterprises.

(h) The securities in some of the accounts were insufficient/defective or not enforceable as the same were not properly executed.

The total amount of outstanding in NPA accounts and Sub-standard Accounts as stated above is Rs. 67,44,639 and the Bank Is likely to incur financial loss to that effect.

Charge No. II

That in utter disregard to the instructions of the Controlling Office, he granted overlimits in the accounts of Roopsy Fashion, Rai Tractors, Mahendra Glass Stores and Bihar Tyre Stores despite suspension of his lending powers by the Zonal Office on February 25, 1997.

Thus, he failed to discharge his duties with utmost integrity, honesty, devotion and diligence and failed ensure and protect the interest of the Bank, and, hence breached Regulation 3(1) of the Conduct Regulations.

3. On the aforesaid charges, an inquiry was conducted and the Inquiring Authority on consideration of the material placed before it, held the petitioner guilty of charge No. 1(a) in respect of accounts Jai Mata Di Filter Industries, Sita Tyres, Dilip Tractors, Mahendra Glass Stores and Rai Int Udyog whereas the said allegation was not proved in the account of Kisan Tyres. The Inquiring Authority also concluded that the allegation in Article No. 1(b) i.e. sanctioning overlimits exceeding delegated authority is not proved. Further, it observed that the allegations in Article 1(c) in respect of accounts Jai Mata Di Filters Industries,

Raja Motors, Dilip Tractors, Mahendra Glass Stores, Rai Int Udyog and Mr. Sreedhar Sharma are proved while the same allegations are not proved in accounts of Kisan Tyres, Buxar Automobiles, Shashi Automobiles and Mr. Sheojee Tiwary. The allegation in Article No. 1(f) are proved in 5 accounts while the same was not proved in the case of accounts Buxar Automobiles and Shashi Enterprises, Bihar Tyres Stores and Mr. Dharmendra Kumar Upadhyay. The allegation of sanctioning limits to firms/individuals having activity outside of the service area as mentioned in Article 1(g) of the charge, they have been found proved in the accounts of Ranjit Singh and Chaitanya Singh and not in the remaining accounts mentioned therein. Further the allegation of security being defective/insufficient and not enforceable has been found proved in respect of accounts while the said allegation was not proved in respect of 11 accounts listed under Article 1(h). Taking into account the fact that the allegations under Article No. 1 except under 1(b) have been proved in respect of majority of the accounts listed therein, the Inquiring Authority concluded that Article No. 1 is conclusively proved. The Inquiring Authority further observed in his findings that the Bank is likely to incur financial loss of Rs. 36,64,528 due to the proved misconduct of Shri G.N. Singh as detailed in Article No. 1. In respect of Charge No. II, the Inquiring Authority found that Shri G.N. Singh had granted overlimits in the accounts mentioned therein despite suspension of his lending powers and thus Article No. II is conclusively proved. The report of the Inquiry Officer was laid before the disciplinary authority who found the allegation proved against the petitioner to be serious and accordingly inflicted the penalty of dismissal from service. Aggrieved by the same, petitioner preferred appeal and the appellate authority by the impugned order, dismissed the appeal.

4. Mr. Ram Balak Mahto, senior advocate, appearing on behalf of the petitioner submits that the misconduct proved against the petitioner is not of such a nature that the same would have led to passing of penalty of dismissal from service. He points out that failure to exercise discretion properly, shall not entail the extreme penalty of dismissal from service.

5. Mr. Shivaji Pandey, however, appearing on behalf of the respondents submits that the allegations found to have been proved against the petitioner are so serious that the bank had inflicted the penalty of dismissal from service. In support of the submission, he has placed reliance on the decisions of the Supreme Court in the cases of the Disciplinary Authority-cum-Regional Manager and Others Vs. Nikunja Bihari Patnaik, and Chairman and Managing Director, United Commercial Bank and Others Vs. P.C. Kakkar,

6. Having appreciated the rival submission, I do not find any substance in the contention of Mr. Mahto. What punishment be inflicted for a particular misconduct is primarily for the disciplinary authority to decide and this Court interferes with the quantum of punishment only when it is shown that the same is disproportionate to the gravity of the allegation or shocking to the conscience of the Court. In the present case, the petitioner was the manager of a Nationalised

Bank has been found to have committed serious misconduct in relation to the disbursement of the loans inasmuch as disbursed loan to non-existent firms and further exceeded in his power in granting loans. In such circumstances, it cannot be said that the punishment inflicted on the petitioner is shocking to the conscience of the Court. The view which I have taken finds support from the decisions of the Supreme Court in the case of the Disciplinary Authority-cum-Regional Manager and Chairman and Managing Director, United Commercial Bank (supra).

7. In the result, I do not find any merit in this application and it is dismissed accordingly but without any order as to cost.