
(2014) 02 PAT CK 0015
In the Patna High Court
Case No : CWJC No. 3864 of 2014

Ram Kishore Prasad

APPELLANT

Vs

The Chairman, Madhya Bihar

RESPONDENT

Date of Decision : 28-02-2014

Acts Referred:

Citation : (2014) 3 PLJR 393

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Diwakar Yadav and Dhirendra Prasad Sinha, Advocate for the Appellant; Prashant Vedsen, Advocate for the Respondent

Judgement

Chakradhari Sharan Singh, J.

The petitioner seeks quashing of the letter dated 28.11.2013 issued under the signature of Chairman, 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 24.4.2013. The petitioner was working as an Officer, 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 Facts of the case and points raised in the appeal of Shri Ram Kishore Prasad was considered. 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 24.4.2013, it was observed that there is nothing new put forth by the appellant which require intervention into the decision of the Disciplinary Authority. Hence the Board upheld the punishment inflicted upon Shri Ram

Kishore Prasad."

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. Prashant Vedsen, 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 24.4.2013 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.