
(2005) 03 PAT CK 0035
In the Patna High Court
Case No : CWJC No. 14421 of 2003

Saryu Mistry

APPELLANT

Vs

Magadh Gramin Bank and Others

RESPONDENT

Date of Decision : 21-03-2005

Acts Referred:

Citation : (2005) 3 PLJR 104

Hon'ble Judges : R.N. Prasad, J

Bench : Single Bench

Advocate : Arun Kumar Arun, for the Appellant; Naresh Dikshit, for the Respondent

Final Decision : Allowed

Judgement

R.N. Prasad, J.—The petitioner is a Bank Manager. At the relevant time he was posted at Branch office, Magadh Gramin Bank, Sarbahda. For his misconduct a proceeding was initiated, copy of the charge was furnished to him, he filed written statement in defence, witnesses on behalf of the Bank were examined in his presence, enquiry was held and enquiry report was submitted to the disciplinary authority, a copy of which was also furnished to him, second show cause notice was issued, he filed his second show cause and on consideration of his show cause the disciplinary authority passed order of punishment which was communicated to him vide letter dated 9.5.2001, Annexure-7. The punishment awarded is degradation of two stages in his incremental scale. He preferred appeal which has been rejected vide order communicated to him by letter dated 26.7.2002, Annexure-9. The petitioner challenged the orders Annexure 7 and 9 in this writ petition. The submission of the learned counsel for the petitioner is that the appellate authority only referred the documents but has not discussed the defence of the petitioner. In fact it is a non-speaking order. Moreover, the petitioner was not allowed opportunity of hearing. On the other hand, learned counsel for the respondents contended that details of the documents have been referred in the appellate order and as such it will be deemed that all the

documents have been considered by the appellate authority at the time of passing the order impugned.

2. On consideration of the submissions made by the counsel for the parties and the materials available on the record, this much is obvious that the appellate authority has referred the documents but it has not discussed the documents/evidence and has rejected the appeal of the petitioner vide Annexure-9. In the case of Ram Chander Vs. Union of India (UOI) and Others, the Apex Court held that it is of utmost importance after the Forty Second Amendment as interpreted by the majority in Tulsiram Patel's case that the appellate authority must not only give a hearing to the Government servant concerned but also pass a reasoned order dealing with the contentions raised by him in the appeal. An objective consideration is possible only if the delinquent servant is heard and given a chance to satisfy the Authority regarding the final orders that may be passed on his appeal. Considerations of fairplay and justice also require that such a personal hearing should be given. The ratio decided in the above mentioned case is fully applicable in the instant case as the appellate authority has only referred the documents and has not discussed the details about the same, moreover, the petitioner was not allowed opportunity of hearing. Thus, on consideration as discussed above, this writ petition is allowed. The order Annexure-9 is hereby set aside. The matter is remitted back to the appellate authority to consider the matter afresh and allow an opportunity of hearing to the petitioner and dispose of the same by a reasoned order in accordance with law.