(2011) 06 PAT CK 0053

In the Patna High Court

Case No : LPA No. 542 of 2007

The State Bank of India and Others — APPELLANT

Vs

Ravindra Kumar Verma — RESPONDENT

Date of Decision : 29-06-2011

Acts Referred:

Citation : (2012) 1 PLJR 847

Hon'ble Judges : T. Meena Kumari, J;Akhilesh Chandra, J

Bench : Division Bench

Advocate : Kaushlendra Kumar Sinha and Sunil Kumar Singh, for the Appellant; P.K. Verma and S.K. Sharan, for the Respondent

Final Decision : Allowed

Judgement

1. The present appeal has been filed against the order dated 23.2.2007 passed in C.W.J.C. No. 8929 of 2003. The respondent is the petitioner being an employee of State Bank of India. A punishment of reduction in basic pay of the petitioner-respondent herein by three stages for three years was imposed on the ground that charge no. 2 was held to be proved by the enquiry officer. The learned Single Judge has held that the Bank was imposing punishment upon the petitioner-respondent herein only on the background that the charges which were brought against him did not match to the level of due diligence of the superior authorities, but the same cannot be said to be so serious in nature that he should be visited with various punishments. Holding so the learned Single Judge has remanded the matter to the Bank to impose any other punishment in their own wisdom which should be commensurate with the charge and the evidence recorded by the Enquiry Officer.

2. The learned standing counsel appearing on behalf of the Bank has contended before this Court that charge no.2 deals with opening of duplicate ledger which would indicate that there was a fraud to the extent of Rs. 1,00,000/- and the Enquiry Officer held charge no. 2 to be proved. Learned Single Judge has also accepted the findings of the Enquiry Officer which would itself amount to be a

major offence. Hence, action of the Bank in imposing the punishment of reduction of pay in three stages ought not to have been set aside by the learned Single Judge and the matter would not have been remanded to the Bank.

3. The learned counsel appearing on behalf of the respondent has tried to convince this Court staling that it is not the respondent who is responsible for the fraud of Rs. 1,00,000/- but there is some other person who was defaulter. Hence the findings of the learned Single Judge with regard to the remand as also imposing lesser punishment need not be interferred with.

4. We had an occasion to go through the entire material annexed to the writ petition as well as to this appeal. The finding of the Enquiry Officer with reference to charge no. 2 is extracted below:-

I find from the PEX I that the duplicate sheet was prepared by one clerk of the Branch named Shri Arjun Prasad, who had been deposed in an another like wise case against Sri. R.N. Verma MMG II of Aurangabad Branch earlier. But the authentication in the balance column of the sheet prepared, bears the initial of the charged officer, which confirms that the charged officer was satisfied himself with the transactions incorporated in the duplicate sheet on the basis of pass book retained by the account holder. Hence, I tend to point out that the pass book of the account is retained by the holder of account so, this can not be made as a pucca record of the transactions in the account in toto & last balance thereof.

In the present case, if the preparation of duplicate transaction sheet were made with the reference of day book the fraudulent withdrawals would have been detected earlier i.e. on the very day of the deposit transaction made in the said a/c on 22.6.1996. It is pertinent to mention that most of the relative documents in respect of the fraudulent withdrawals are missing from the branch and I understand if the detection of the same were made on 22.6.1996 in lieu of 6.12.1996, the Bank would have been in a position to procure the other evidences/documents in finding out the facts & accessing to the real fraudenter. Thus, I have come to the conclusion that due to some lapses, the fraud could not be brought in to the notice of Bank & thus the action of the charged officer helped in concealing the fraud of Rs. one lac. Therefore, allegation no. 2 is substantiated.

5. In view of the finding in the Enquiry Officer''s report there was a fraud of Rs. 1,00,000/- committed by the petitioner-respondent herein and as this Court is not the appellate authority to sit over the findings of Enquiry officer''s report, it cannot be said that there is only diligence in the action of the charged officer which can be overlooked by the Bank by imposing minor punishment in the background of the finding of the Enquiry Officer that there is a fraud of Rs. 1,00,000/- which could not have detected on the date of 22.6.1996 in lieu of 6.12.1996.

6. We are of the opinion that the findings of the learned Single Judge to the effect that the charge officer was imposing lesser punishment cannot be

sustained in the eye of law and the order of learned Single Judge with reference to referring the matter to the Bank for imposing lesser punishment is also to be set aside. In the above background of the findings of the Enquiry Officer''s report, we are of the opinion that the findings of the learned Single Judge cannot be sustained and accordingly, the judgments of the learned Single Judge is set aside and this appeal is accordingly allowed.

