IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.911 of 2018
In
Civil Writ Jurisdiction Case No.10392 of 2003

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1. The Punjab National Bank, Through Its Chairman And Managing Director and Ors
2. The Zonal Manager and Appellate Authortiy, Punjab National Bank, Zonal Offic Block, Chanakya Place,
3. The Senior Regional Manager and Disciplinary Authority, Punjab National Bank, Regional Office, Patn
4. The Branch Manager, Punjab National Bank, Branch Office, Saksohra, District - Patna.

... ... Appellant/s

Versus

Sanjay Kumar Srivastava son of Sri Gopal Bhusan Prasad R/o 25-B, Gandhi Nagar, Boring Road, P.S. - S.K.Puri, District - Patna.

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Amit Kumar Anand, Advocate

For the Respondent/s : Mr. Ajay Kumar Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

8 19-06-2026 Heard learned counsel for the parties.

2. The present *intra court* appeal has been preferred against the order dated 18.05.2018, passed in C.W.J.C. No. 10392 of 2003, whereby the learned Single Judge allowed the writ petition preferred by the writ petitioner (respondent herein), quashed the order of punishment dated 06.11.2000 as well as the

appellate order dated 14.08.2003.

3. The brief facts of the case are that the writ petitioner (respondent herein) was initially appointed as Clerk-cum-Cashier on 28.04.1994 and was temporarily posted at the Branch Office, Budha Colony, Patna. Thereafter, he was permanently posted with effect from September, 1994 at the Branch Office, Saksohra, District Patna. On 07.10.1997, a charge-sheet containing various allegations was served upon the writ petitioner. He submitted his reply denying the charges. Subsequently, vide letter dated 17.02.1998, the disciplinary authority appointed an Inquiry Officer and a Presenting Officer, whereupon a regular departmental proceeding was initiated against him. The inquiry was conducted and, upon its conclusion, the Inquiry Officer submitted his report dated 15.01.2000, which was forwarded to the writ petitioner vide letter dated 08/16.02.2000. The writ petitioner submitted his response pointing out various alleged infirmities in the inquiry report. Thereafter, the appellant-Bank issued a second show-cause notice dated 05.08.2000 proposing the punishment of removal from service. Upon consideration of the reply submitted by the writ petitioner, the disciplinary authority passed the final order dated 06.11.2000 imposing the penalty of

removal from service. Aggrieved thereby, the writ petitioner preferred a departmental appeal before the Zonal Manager. The appellate authority, however, dismissed the appeal vide order dated 14.08.2003.

4. Being aggrieved by the order passed by the appellate authority affirming the punishment of removal from service, the writ petitioner approached this Hon'ble Court by filing a writ petition.

5. The learned Single Judge, upon consideration of the pleadings and materials available on record, was pleased to allow the writ petition and set aside the orders of punishment. The relevant findings recorded by the learned Single Judge are reproduced hereinbelow:

> *"7. I have heard the learned counsel for the parties and gone through the materials on record. It is apparent from the inquiry report dated 15.01.2000, as discussed at length hereinabove in the preceding paragraphs, that no material whatsoever conclusively points towards the guilt of the petitioner herein. Infact, the present case is a case of no evidence apart from the fact that most of the charges have been found to have not been conclusively proved. Moreover, even the disciplinary authority has opined that the Inquiry Officer appears to be biased to some extent, hence, in such view of the*

matter, the said inquiry report is perverse and cannot be relied upon. Another aspect of the matter is that the disciplinary authority itself has opined in its letter written to the Chief Vigilance Officer that the behaviour and conduct of the petitioner has otherwise been good and the punishment of removal would be too harsh, hence it would be proper to inflict punishment of stoppage of six future increments. The statement of the respondents in their reply dated 06.09.2004 clinches the issue in favour of the petitioner, inasmuch as apparently upon the direction of the Chief Vigilance Officer, punishment of removal from service has been inflicted upon the petitioner herein. Thus, apparently, the disciplinary authority has not applied its independent mind while passing the impugned order of punishment dated 06.11.2000 and there is an apparent aberration in law, vitiating the said order of punishment.

8. For the reasons mentioned hereinabove, it is apparent that the entire inquiry report is perverse, based on no evidence, and the order of punishment dated 06.11.2000, by which the petitioner has been inflicted with the punishment of removal from service, which is based on the perverse inquiry report, is also not tenable in the eyes of law. Apart from what has been stated hereinabove, the disciplinary authority while passing the said order of punishment dated 06.11.2000 has been influenced by other considerations, hence the order of punishment

dated 06.11.2000 is fit to be set aside and accordingly, the order dated 06.11.2000 issued by the respondent-Senior Regional Manager and the disciplinary authority of the respondent-Bank is quashed. In view of the fact that the order of punishment dated 06.11.2000 has been quashed, the appellate order dated 14.08.2003 is bound to fall and is accordingly, set aside as well."

6. Learned counsel for the appellants submits that the findings, recorded by the Inquiry Officer, are based on documentary evidence, management exhibits and oral testimonies adduced during the enquiry and, therefore, could not have been termed as perverse.

7. It is further submitted that several charges levelled against the writ petitioner stands proved on the basis of the materials available on record and the learned Single Judge failed to take into consideration the enquiry report in its entirety. According to the appellant-Bank, the conclusion of the learned Single Judge that there is no material connecting the writ petitioner with the alleged misconduct runs contrary to the findings recorded in the enquiry report.

8. Learned counsel for the appellants further submits that the disciplinary proceeding is conducted strictly in accordance with the prescribed procedure and in compliance

with the principles of natural justice. It is contended that the disciplinary authority, upon consideration of the enquiry report, the records of the proceeding and the explanation furnished by the writ petitioner, independently arrived at the conclusion that the charges stand proved and accordingly imposed the punishment of removal from service.

9. *Per contra*, learned counsel for the respondent submits that the learned Single Judge, upon a proper appreciation of the materials available on record, has rightly interfered with the orders passed by the disciplinary and appellate authorities. It is submitted that the impugned judgment is well-reasoned and does not suffer from any infirmity warranting interference by this Court in the present intra-court appeal.

10. In view of the rival submissions advanced on behalf of the parties, the issue which arises for consideration is whether the learned Single Judge committed any error warranting interference in an intra-court appeal by setting aside the order of punishment dated 06.11.2000 and the appellate order dated 14.08.2003 on the ground that the findings recorded in the departmental proceeding were perverse and the decision-making process stood vitiated.

11. Having heard learned counsel for the parties and upon perusal of the materials available on record, it transpires that certain facts are not in dispute. The writ petitioner was subjected to a departmental proceeding pursuant to a charge-sheet dated 07.10.1997. The proceeding culminated in the enquiry report dated 15.01.2000, on the basis whereof the disciplinary authority imposed the punishment of removal from service vide order dated 06.11.2000, which subsequently came to be affirmed by the appellate authority vide order dated 14.08.2003.

12. The controversy, however, lies in the sustainability of the findings recorded in the departmental proceeding and the validity of the decision-making process culminating in the order of punishment. More particularly, the dispute centres around whether the findings recorded against the writ petitioner were supported by legally admissible material and whether the disciplinary authority exercised its discretion independently while imposing the punishment.

13. It is well settled that the power of judicial review in disciplinary matters is directed not against the decision itself but against the decision-making process. Though the High Court does not act as an appellate authority over the findings recorded

in a departmental enquiry, interference is permissible where the findings are perverse, based on no evidence or where the action of the disciplinary authority is vitiated by arbitrariness, bias or non-application of mind. In ***B.C. Chaturvedi v. Union of India,*** *reported in* ***(1995) 6 SCC 749***, the Hon'ble Supreme Court observed that judicial review is concerned with the decision-making process and not with the merits of the decision itself. The relevant part of the said order reads as follows:

> ***"12.*** *Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion*

receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

14. Upon an independent examination of the materials placed on record, this Court finds that the learned Single Judge has recorded a specific finding that no material conclusively established the charges levelled against the writ petitioner and that most of the charges had not been conclusively proved. Significantly, the learned Single Judge also noticed that even the disciplinary authority had observed that the Inquiry Officer appeared to be biased to some extent. Once such an observation

emanates from the disciplinary authority itself, the findings recorded in the enquiry report necessarily require closer scrutiny. The appellants have not been able to demonstrate before this Court that the aforesaid finding recorded by the learned Single Judge is wholly unsupported by the records.

15. This Court further finds substance in the finding recorded by the learned Single Judge regarding the absence of independent application of mind by the disciplinary authority. From the materials brought on record, particularly the correspondence exchanged with the Chief Vigilance Officer, it appears that the disciplinary authority had itself opined that a lesser punishment would be appropriate in the facts of the case. However, the punishment ultimately imposed upon the writ petitioner was removal from service. The records, therefore, lend credence to the conclusion that the disciplinary authority was influenced by considerations extraneous to its independent assessment of the matter.

16. The law is equally settled that where discretion is vested in a statutory or disciplinary authority, the same must be exercised independently and not under the dictates of another authority. In ***Anirudhsinhji Karansinhji Jadeja v. State of Gujarat,*** *reported in* ***(1995) 5 SCC 302***, the Hon'ble Supreme

Court held that where a power is conferred upon a particular authority, that authority alone is required to exercise the said power and any exercise of discretion at the behest of another authority stands vitiated. The relevant part of the said order reads as follows:

> *"11...This is a case of power conferred upon one authority being really exercised by another. If a statutory authority has been vested with jurisdiction, he has to exercise it according to its own discretion. If the discretion is exercised under the direction or in compliance with some higher authority's instruction, then it will be a case of failure to exercise discretion altogether..."*

17. In ***State of Punjab v. V.K. Khanna,*** *reported in* ***(2001) 2 SCC 330***, the Hon'ble Supreme Court underscored the requirement of independent application of mind by the competent authority while dealing with disciplinary proceedings and observed that the authority entrusted with such power is required to take its decision on the basis of its own consideration of the materials available on record. The relevant part of the said order reads as follows:

> ***"33.*** *While it is true that justifiability of the charges at the stage of initiating a disciplinary proceeding cannot possibly be delved into by any court pending inquiry but it is equally well*

settled that in the event there is an element of malice or mala fide, motive involved in the matter of issue of a charge-sheet or the authority concerned is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in that event law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. It is not a question of shielding any misdeed that the Court would be anxious to do, it is the due process of law which should permeate in the society and in the event of there being any affectation of such process of law that law courts ought to rise up to the occasion and the High Court, in the contextual facts, has delved into the issue on that score. On the basis of the findings no exception can be taken and that has been the precise reason as to why this Court dealt with the issue in so great a detail so as to examine the judicial propriety at this stage of the proceedings.

34. *The High Court while delving into the issue went into the factum of announcement of the Chief Minister in regard to appointment of an enquiry officer to substantiate the frame of mind of the authorities and thus depicting bias — what bias means has already been dealt with by us earlier in this judgment, as such it does not require any further dilation but the factum of announcement has been taken note of as an illustration to a mindset viz.: the inquiry shall*

> *proceed irrespective of the reply — is it an indication of a free and fair attitude towards the officer concerned? The answer cannot possibly be in the affirmative. It is well settled in service jurisprudence that the authority concerned has to apply its mind upon receipt of reply to the charge-sheet or show-cause as the case may be, as to whether a further inquiry is called for. In the event upon deliberations and due considerations it is in the affirmative — the inquiry follows but not otherwise and it is this part of service jurisprudence on which reliance was placed by Mr Subramanium and on that score, strongly criticised the conduct of the respondents (sic appellants) herein and accused them of being biased. We do find some justification in such a criticism upon consideration of the materials on record."*

18. This Court is of the considered view that the present case is not one where the learned Single Judge has re-appreciated the evidence as an appellate authority. Rather, the interference is founded upon findings relating to perversity in the enquiry report and the failure of the disciplinary authority to independently exercise its statutory discretion while imposing punishment. Both aspects go to the root of the decision-making process and squarely fall within the permissible parameters of judicial review.

19. In the aforesaid facts and circumstances, this Court finds no reason to take a view different from the one taken by the learned Single Judge. The appellants have failed to point out any patent illegality, perversity or jurisdictional error in the impugned judgment warranting interference in exercise of intra-court appellate jurisdiction.

20. Accordingly, the issue framed hereinabove is answered against the appellants and in favour of the writ petitioner.

21. The present *intra court* appeal, accordingly, stands dismissed.

22. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J.)

(Ranjan Kumar Jha, J.)

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