

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4914 of 2018

Pranab Kumar Saha Son of Late Nani Gopal Saha Resident of 0/9 MIG Phase
- I, Ashiana Nagar, P.S. - Rajeev Nagar, Patna - 800025.

... .. Petitioner/s

Versus

1. The Punjab National Bank through its Chairman Head Office, Plot No.- 4, Sector- 10, Dwarika, New Delhi- 110075.
2. The General Manager-cum-Appellate Authority, Punjab National Bank, Head Office, Plot No. - 4, Sector- 10, Dwarika, New Delhi- 110075.
3. The Deputy G.M., Punjab National Bank, Zonal Office, Chanakya Towers, R- Block, Patna - 800001.
4. The Executive Director, Punjab National Bank, Head Office, Plot No. - 4, Sector - 10, Dwarika, New Delhi- 110075.
5. Shri M.K. Nandwani, Chief Manager (Enquiry Officer), Punjab National Bank, Circle Office, Ara.
6. Managing Director, Punjab National Bank, Head Office, Plot No.- 04, Sector- 10, Dwarika, New Delhi- 110075.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Saha, Advocate
For the Respondent/s : Dr. Pankaj, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 29-04-2024

Heard learned counsel for the petitioner and
learned counsel for the respondent-Punjab National Bank.

2. The present writ petition has been filed for the
following reliefs:-

(a) A writ in the nature of *certiorari* or any other
appropriate writ order/s direction/s for quashing the following:-



(i). The order dated 14.06.2017 passed by General Manager, Appellate Authority, Human Resources Management Division, Headquarter, New Delhi, Punjab National Bank imposing major penalty of reduction of salary by one stage in the time scale of pay on which he was then for a period till 31.07.2017 i.e. the date of his retirement with further direction that he would not earn increment of pay during the period of such reduction in terms of regulation 4(F) of PNB Officer Employees' (D & A) Regulation 1977. By modifying the major penalty of reduction of salary by two stages awarded by the disciplinary authority (Deputy G.M.), Punjab National Bank. (Annexure -14).

(ii). The order dated 11.11.2016 passed by Deputy Zonal Manager, the Disciplinary Authority and the Respondent No. 2 holding the Petitioner to be guilty of two charges and imposing major penalty of reduction of salary by two stages in the time scale of pay on which he was then placed for a period till the date of superannuation with further direction that he would not earn the increment of pay during the said period under Reg. 4 (F) of 1977 regulation.

(b) A writ in the nature of *mandamus* or any



other appropriate writ order/s direction/s commanding the respondents for the following:-

(i). To hold the orders contained in Annexure-14 and 15 to be nullity and non-est in the eye of law.

(ii). To give all monetary and other incidental of the promotion given to the Petitioner in the month of November, 15 from the Scale of III to Scale No. IV which in effect means giving of two increments i.e. hike in pay scale of the Petitioner and the consequential benefits to which the Petitioner is entitled to on account of said promotion.

(iii). To release withholding of the benefits of the aforesaid promotion to be without jurisdiction, illegal, arbitrary and not permissible.

(iv). To re-fix the pension amount and other retiral benefits taking into consideration treating the two punishments to be not there and after giving the benefit of promotion which was effective in month of November, 2015.

(c) To any other relief/s to which the Petitioner is found entitled to.

(d)(i). To quash and set aside the order dated 14.08.2017 (Annexure-15) passed by the Reviewing Authority, Executive Director, Punjab National Bank, New Delhi.



(ii). To quash and set aside the charge sheet dated 19.11.2015 issued by the Deputy General manager, Punjab National Bank, New Delhi (Annexure-10).

3. Learned counsel for the petitioner submits that petitioner was Senior Manager (Management Grade-III) District Manager office in the Punjab National Bank who retired from service on 31.07.2017. Counsel submits that he was appointed in the Bank on 01.01.1979 and with the span of time, he was provided three promotions. The first promotion was granted to him from the cadre of Clerk to Junior Manager Grade-I (Officer) on 08.09.1988, second promotion was granted on 15.01.2023 from Junior Manager Grade-I to Branch Manager and third promotion was given to the cadre of Senior Manager (Management Grade-III) on 28.10.2009. Counsel submits that after promotion as Senior Manager he was transferred and his posting was at Udwantnagar Branch (Ara) of the bank from where he was relieved on 16.07.2013. In Udwantnagar Branch the petitioner had advanced loan for 46 Tractors. The loan so sanctioned was for commercial purpose, under Credit Guarantee Fund Scheme (CGTMSE) wherein no collateral was required to be pledged with the Bank. Counsel submits that after advancement of loan two routine inspections of the branch was



done and in the inspection report neither any irregularity was found nor any adverse remark was made by the inspection team against the petitioner. The letter of appreciation was issued by the different authorities of the bank with regard to performance of the petitioner in the bank. Counsel submits that petitioner has completed the entire process of advancement of loan for 46 Tractors and registration and insurance of those tractors were made under commercial purposes. Counsel submits that during the course of discussion with the senior officers of the bank, a mail was sent by the circle office Ara to CGTMSE, Mumbai, wherein it was stated that the tractor financed for commercial purpose is eligible for CGTMSE cover. Counsel submits that the senior officers of the bank regularly visited and inspected the working of the branch and no irregularity or adverse remark was made against the petitioner. Counsel submits that the same thing happened in the Baruna branch, Ara, of the bank, but the then Senior Manager posted at the said branch was left after giving caution and no disciplinary action was taken against him but the petitioner was served a letter by the Circle Head on 24.04.2014. In response of the said letter, the petitioner has submitted his reply on 23.06.2014. But instead of accepting his reply the respondent bank has decided to issue a charge sheet to the



petitioner on 19.11.2015. Counsel submits that in the said charge which has been issued to him 19.11.2015 two charges were imposed, the first charge was that the petitioner did not adhere to the norms prescribed under delegation of powers and deviated from the prescribed norms as Sanctioning Authority and sanctioned 46 tractors' loan with sanctioned limit of Rs. 200.67 lakhs under Small Medium Enterprises by obtaining CGTMSE cover in violation of bank guidelines. And in the second charge it has been alleged that the petitioner did not ensure the eligibility criteria in 46 tractor loan accounts sanctioned by him.

4. Learned counsel for the petitioner further submits that in response of the circular issued by the Disciplinary Authority, the petitioner filed his response but in the enquiry report the petitioner was found guilty and show cause was issued to him. Petitioner responded but punishment order had been imposed against him. The said punishment order was made by way of reduction of salary by two stages in the time scale of pay in which he is at present placed for a period till 31.07.2017, i.e., the date of retirement with further direction that he will not earn increment of pay during the period of such reduction.



5. Learned counsel submits that being aggrieved and dissatisfied with the order passed by the Disciplinary Authority, the petitioner has preferred appeal but the Appellate Authority vide order dated 11.11.2016 held him responsible and rejected his appeal. But in the award vide order dated 14.06.2017 the authority allowed one increment and restrained other remaining increments with major penalty. Counsel submits that the petitioner thereafter challenged the order passed by the Appellate Authority before the Reviewing Authority but the Reviewing Authority vide order dated 14.08.2017 has rejected the review application of the petitioner. Thereafter, the petitioner has challenged all those orders before this Hon'ble Court including the charge sheet dated 19.11.2015. The argument of the counsel is of two folds. Learned counsel submits that the issuance of charge memo is itself bad in law due to the reason that the charge memo has not been issued by the Competent Authority. According to him, as per the rule of bank, which has annexed in the writ petition, the disciplinary action against the petitioner has been guided by the Punjab National Bank Officer Employees (Discipline and Appeal) Regulation 1977 which is annexed in the writ petition as Annexure-16. According to Rule 5(1) of the Disciplinary Regulation 1977 which clearly indicates



that the Managing Director or any other authority empowered by him by general or special order may institute or direct the Disciplinary Authority to initiate the disciplinary proceeding against an officer/employee of the bank. He submits that Rule 5(1) is the condition precedent for applicability of Rule 5(2) and 5(3) and, as such, he submits that since the charge memo has been issued by the incompetent authority. There is no indication of any witnesses in the charge memo, hence the said charge is in gross violation of Rule 6(3) of the Disciplinary Regulation 1977. Counsel further submits that since the charge itself is bad in law and defective, then the entire subsequent proceedings shall be defective. In this regard, counsel relied on judgment of a case, namely, **CMD, Coal India Ltd. and Others Vs. Ananat Shah and Others** reported in **(2011) 5 SCC 142**. Relevant paragraphs are 31 and 32 where it has been held that when charge sheet is not sustainable both on facts as well as in law then the proceeding including punishment order, appellate order, review order cannot sustain in the eye of law.

6. Learned counsel further submits that the petitioner has advanced loan under MSME scheme for commercial purposes for which no collateral security is required. He submits that up to date guarantee fee as required



under CGTMSE scheme has been required by the Punjab National Bank circular. He further submits that the loan sanctioned to all 46 Tractors as commercial purpose insurance coverage and registration both were made also for commercial purposes. Counsel further submits that petitioner was issued letter of appreciation by the bank authority for the purpose of good performance for the purpose of said loan but subsequently departmental proceeding has been initiated against him which is against the staff accountability policy of the bank in which it has been mentioned in Clause 10.2A that no accountability will be fixed for any lapse, which has not been pointed out in two successive inspection reports for four years of the date of the event, i.e., occurrence of lapse, whichever is earlier. Counsel submits that he was posted in the branch in the year 2009 onward. Loan was also sanctioned from 2009 onwards but charge memo has been issued in 2016. During the said period two successive inspections of the branch was taken place but no lapse was found and, therefore, according to the petitioner the petitioner is completely innocent and has been unnecessarily harassed. Other point which counsel for the petitioner has taken that in the same fashion, the another bench of Punjab National Bank, i.e., Baruna Branch has also sanctioned the loans but



neither any disciplinary action has been taken against Baruna branch of Punjab National Bank nor any punishment was imposed, only he was cautioned by the bank officials and the said caution is not a penalty either minor or major. In this way gross injustice has been taken place against the petitioner.

7. Learned counsel for the respondent-bank, on the other hand, submits that the petitioner was working as Senior Manager in the Udwantnagar Branch, Ara, during the said period he had sanctioned 46 tractors loan in SME scheme without obtaining collateral sureties, as a result bank interest is jeopardized. It has been submitted that the petitioner failed to discharge his duties with utmost devotion, diligence and failed to take all steps to ensure and protect the interest of the bank. As such, he has committed misconduct in terms of Regulation 3(1) and 3(3) read with Regulation 24 of the Punjab National Bank Officer Employees (Conduct) Regulations 1977. Counsel submits that the charge sheet has been issued to him on 19.11.2025 (Annexure 10). The said article was subsequently followed by two imputation of charge and followed by the enquiry. During the enquiry, the charges were proved against the petitioner followed by the show cause, by the Disciplinary Authority followed by the punishment order, which he



challenged before the Appellate Authority. The Appellate Authority found the punishment imposed inconsistent and modified the aforesaid penalty to major penalty. The petitioner has challenged the same in the Review and in review the petitioner's case has also been rejected. Learned counsel for the bank relied on the point that since the branch manager of Baruna Branch of PNB has been superannuated but the said point he has not raised before the Disciplinary Authority. Counsel submits that the petitioner has not produced any document which shows that the charge levelled against the petitioner and of Manager of Baruna Branch are identical. It is submitted by the bank that both cases are different. Counsel further submits that the orders were passed completely following the principles of natural justice. The charges levelled against the petitioner have been proved after conduction of disciplinary proceeding. Counsel relied on judgment passed in the case of **State Bank of India Vs. Ram Lal Bhaskar and Another** reported in **(2011) 10 SCC 249**, in which it has been held that High Court is not constituted in a proceeding under Article 226 of the Constitution of India as a Court of appeal over the decision of the authorities holding a departmental proceeding against a government servant. Learned counsel relied on another



judgment in the case of **Union Bank of India Vs. Vishwamohan** reported in **(1998) 4 SCC 310** in which it has been held that the banking business requires absolute devotion, diligence and utmost integrity by every bank employee, in particular the officer. In absence of such characteristics in an office result in erosion of the confidence of the public and depositors. Hence, the punishment imposed upon the petitioner is commensurate with the gravity of the charges. Learned counsel for the petitioner further relied on the judgment of **Punjab National Bank Vs. M.L. Kalra (D) THR. LRS & Another** reported in **2023 Live Law (SC) 733**, in which it has been held that the power of judicial review for the Courts in disciplinary action is circumscribed. The Court can only correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice and the power exercised is not akin to adjudication of the case on merits as an Appellate Authority.

8. In response of the legal question raised by the petitioner that charge memo has not been issued by the competent authority. Learned counsel for the Bank submits that as per clause 5(2) of Regulation of 1977, the authority issuing the charge is competent and there is no illegality in issuing the



charge memo by the Disciplinary Authority.

9. In this background, counsel for the Bank submits that the present writ petition is fit to be dismissed and the order passed by the authorities are fit to be sustainable in the eye of law.

10. After going through the pleadings and hearing the arguments of the parties, with a view to decide this point that whether charge memo has been issued by the competent authority or not. It is necessary to go through the definition of the disciplinary authority first in Clause 3(G) of the said Regulation of 1977 defines the term “Disciplinary Authority”. According to definition, it means the authority specified in the schedule which is competent to impose on an officer employee any of the penalty specified in Regulation-IV. Clause 4 of the Regulation indicates the definition of penalties including minor and major. Clause 5 of the said Regulation describes the authority to institute disciplinary proceeding and impose penalty which is as follows:-

“5. (1). The Managing Director or any other authority empowered by him by general or special order may institute or direct the Disciplinary Authority to institute disciplinary proceedings against an officer employee of the bank.



(2). *The Disciplinary Authority may himself institute disciplinary proceedings.*

(3). *The Disciplinary Authority or any authority higher than it, may impose any of the penalties specified in Regulation 4 on any officer employee.”*

11. Upon perusal of the above clause it is very much clear that Clause 5(1) is not the condition precedent for Clauses 5(2) and 5(3) rather Clauses 5(1), 5(2) and 5(3) are independent clauses. In addition to that there are schedule attached in the said regulation, in which it is stated that who shall be the Disciplinary Authority. From the said chart it is very much clear that for the Officer in management Grade Scale-II and III the DGM was the disciplinary authority. In this view of the matter, this Court is of the firm view that the petitioner who himself narrated in the petition that he was in the Management Grade-III and for him the DGM is the Disciplinary Authority and, hence, the contention of the petitioner is not acceptable and, therefore, this Court held that the DGM is the competent authority and, as such, the judgment as quoted by the petitioner in the case of **State Bank of India Vs. Ram Lal Bhaskar and Another (supra)** is not applicable



and anyway helpful for the petitioner.

12. It transpires from the charge memo that the allegation against the petitioner is that he has violated the norms as mentioned in article that petitioner has sanctioned 46 tractors' loan in SME Scheme without obtaining collateral sureties as a result Bank's interest is jeopardized. But upon perusal of enquiry report, disciplinary order, appellate order the discussion of SME Scheme has not been made by the Bank officials. Everywhere it is indicated that the petitioner has violated the MSME Scheme and its guidelines. As per the explanations made by the counsel, the SME Scheme means Small and Medium Enterprises Scheme whereas MSME scheme means Micro, Small and Medium Enterprises Scheme. It is very surprising for this Court that in the main article of charge (Annexure-10), it is indicated that petitioner has sanctioned loan in SME Scheme without obtaining collateral sureties as a result bank's interest is jeopardized. But there is no discussion in the enquiry report, disciplinary order and appellate order about SME scheme. The judgment of **PNB Vs. M.L. Kalra (Supra)** shall not help the respondent due to the reason that in the opinion of this Court that in the article of charge allegation of violation of scheme of SME has been made whereas in the



discussion the violation of MSME has been discussed. As such, in the opinion of the Court it is an error of law which is necessary to be corrected.

13. As such, this Court hereby set aside the orders dated 14.06.2017 and 14.08.2017 passed by the Appellate Authority and Reviewing Authority respectively, and direct the respondent-General Manager to hear the petitioner's appeal afresh and pass a reasoned and speaking order on violation of SME scheme mentioned in the charge memo. The petitioner is directed to produce the order before the appellate authority and appellate authority is directed to pass order after going through the entire records, particularly based on the allegation made in the charge that petitioner has violated SME Scheme within 90 days from the date of receipt/production of a copy of this order.

14. As such, this writ petition is allowed with the aforesaid observation.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2024
Transmission Date	NA

