

(2008) 09 PAT CK 0169

Patna High Court

Case No: CWJC No. 7936 of 2006

Braj Bhushan Choubey

APPELLANT

Vs

The Punjab National Bank and
OthersRESPONDENT

Date of Decision: Sept. 15, 2008**Citation:** (2009) 1 PLJR 398**Hon'ble Judges:** Ajay Kr. Tripathi, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ajay Kr. Tripathi, J.

Petitioner wants quashing of chargesheet dated 11.12.2004 on the ground of the same being vague, indefinite and non-descriptive. He also wants quashing of the order dated 31.1.2006 passed by the disciplinary authority which imposed penalty of the petitioner being brought down to a lower stage in the scale of pay up to maximum of two stages, in terms of Clause 14(6)(e) of the Bipartite Settlement (Annexure-21), as well as the order passed in appeal affirming the penalty imposed by the disciplinary authority, contained in Annexure-23 to the writ application. Petitioner was appointed as a Clerk-cum-Cashier under the respondents-Punjab National Bank. He is supposed to have had a clean record spread over a period of 17 years. In the year 2000 a loan of Rs. 3,60,000/- and Rs. 4 lacs was sanctioned and disbursed to one Shankar Mandal from the two branches of the Bank namely, Bhagalpur Bazar Branch and Barari I.E. Branch respectively. Against the above loans certain National Saving Certificates and Kisan Vikas Patra were pledged as security. Subsequently it seems the National Saving Certificates worth Rs. 6 lacs as well as the Kisan Vikas Patras turned out to be fake. The matter was inquired into and it transpired that the petitioner played a vital role in introducing said Shankar Mandal to both branches of the Bank. He also facilitated the pledging of the said certificates

from the post-offices in question. Since the fraud had been committed against the Bank in question, the respondents decided to seek explanation from the petitioner. A show cause was issued on the points that the petitioner had introduced Shankar Mandal to the then Branch Managers of the branches and had prevailed upon them to grant loans against fake securities and the petitioner had accompanied Shankar Mandal to the post-offices in question and got those fake National Saving Certificates and Kisan Vikas Patras assigned in favour of the branches, despite being responsible employee of the Bank.

2. The respondents were not satisfied with the answer given by the petitioner and they decided to hold regular departmental enquiry into the matter and issued a charge-sheet dated 11.12.2004, contained in Annexure-14. The Enquiry Officer held enquiry and produced enquiry report holding the petitioner guilty, based on documental and oral evidence brought on record during the course of enquiry. The Enquiry Officer categorically found that the depositions of the witnesses, defence and the circumstances emerging thereunder was conclusive to show that the petitioner had played an instrumental role in accompanying and introducing Shankar Mandal, a so-called PHED Engineer/Head Clerk to two Managers of the Branch In question and facilitated raising of loans on pledging NSCs and KVPs as security which were found to be fake.

3. Petitioner was thereafter served with a copy of the enquiry report and given opportunity to respond to the same. The disciplinary authority thereafter came to a considered opinion vide order dated 31.1.2006, contained in Annexure-1 that the petitioner was guilty of gross misconduct and the explanations offered by him to the enquiry officer did not exonerate him of the guilt which was prima facie found in the enquiry. The punishment of lowering down in the scale of pay up to maximum of two stages in terms of Clause 14(6)(e) of the Bipartite Settlement dated 10.4.2002 came to be passed.

4. Petitioner filed an appeal against this order and the appellate authority was in agreement with the order of punishment passed by the disciplinary authority. The appellate order dated 15.5.2006 has been annexed as Annexure-23 to the writ application. It is in this background that the present writ application has come to be filed and challenge has been thrown not only to the chargesheet but also the punishment order and the order in appeal.

5. The contention on behalf of the learned counsel for the petitioner is that charges were vague, indefinite and not supported. That being the position, the same itself requires to be quashed. He further contends that there is kind of discrimination practised by the respondents because the officers who were also proceeded for the above misdemeanour have been allowed to virtually go scot-free. He submits that from the nature of the post and his position being that of a clerk-cumcashier he has no authority in sanctioning the loan. Even if some role was played by the petitioner, the final responsibility lay with the two Managers concerned. It is also urged that it

is none of the responsibility of the petitioner to get those NSCs and KVPs endorsed or pledged in favour of the Bank. If there is failure on the part of the higher authorities he cannot be punished for the same.

6. Serious objections have been made by the respondents both on the factual as well as on legal position and they have filed a counter affidavit in the matter. It is contended that the chargesheet is categorical in its assertion. It is a case where trust and faith posed upon the petitioner by his senior colleagues by virtue of being part and parcel of the same organization has been breached. The petitioner had played role in not only introducing Shankar Mandal to the two managers and its officials but also went out of his way to ensure that he got the pledging and the verification of the forged NSC and KVP done at his level. No doubt there has been administrative failure looking back at the entire episode but then it is also a case of misuse of position by the petitioner which facilitated the fraud having been committed against the institution which he was serving.

7. The sanction of loans, the pledging of NSC and KVP to the two branches as security and on verification of the same establishing their fakeness is not a disputed issue. The question is as to what was the role of the petitioner in this regard. A look on the enquiry report which is contained in Annexure-14 and starts at page 100 of the writ application would show that there is well formed evidence that the petitioner was more than interested in begetting this loan to Shankar Mandal and had introduced the said person to the two branches. He had also obtained the pledging form alongwith forwarding letter for getting them endorsed in favour of the bank and he delivered the same to the bank after a couple of days. In other words, the petitioner is incorrect in stating that this was not the part and parcel of his responsibility. But then why had he taken such a responsibility upon himself, when there is nothing as evidence that responsibility was thrown upon him. In fact the evidence is of his hyperactivity and conscious participation in the process of sanction of loan. The Court can take notice of the fact that petitioner's activity was not part and parcel of his responsibility but he did go out of his way to facilitate the sanction of loan. A bare look of the enquiry report and reading of the same does lead this Court to come to a conclusion that the petitioner is guilty of the charges and his explanations are only hyper-technical now to get rid of the punishment which has come to visit him which in the opinion of the Court is a serious misconduct.

8. If in the above given facts and evidence the disciplinary authority by giving reasoning and considering the case of the petitioner imposed the punishment in question upon him then the Court would not like to interfere with the same by sitting in appeal or coming to any other conclusion to the liking of the petitioner. Even the punishment in question is not harsh but is commensurate with the charges and requires no re-look on the ground of proportionality.

9. The petitioner has made out no case for interference either with the chargesheet or with the order of punishment passed by the disciplinary authority as well as the appellate authority. The writ application is dismissed.