**Nagendra Sah Vs. the Bihar State Co-operative Land Development Bank Simit Limited Through Its Administrator,**

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**SooperKanoon Citation** : sooperkanoon.com/518123

**Court** : Jharkhand

**Decided On :** Jun-30-2006

**Reported in** : [2006(3)JCR400(Jhr)]

**Judge** : R.K. Merathia, J.

**Appeal No.** : Civil Writ Jurisdiction Case No. 335 of 1998 (R)

**Appellant** : Nagendra Sah

**Respondent** : The Bihar State Co-operative Land Development Bank Simit Limited Through Its Administrator, ;The Adm

**Advocate for Def.** : M.K. Sinha, Adv.

**Advocate for Pet/Ap.** : Saurav Arun, Adv.

**Disposition** : Writ petition dismissed

**Judgement** :

R.K. Merathia, J

1. Petitioner has challenged the order-dated 4.12.1997 ( Annexure-10), by which he has been dismissed from service.

2. When he was posted as Branch Manager of the Bank at Lohardaga, a show cause notice and then a charge-sheet was issued to him for violating the rules and instructions of the Bank and committing irregularities, in disbursing loan. He was given opportunity of personal hearing and for adducing evidence, by office order dated 16.5.1997 (Annexure-3). He filed his written explanation (Annexure-4). He did not lead any evidence. The Inquiry officer found him guilty of negligence in realization of Bank loan. However, he did not find him guilty of the second charge- i.e. obstructing disbursement of loan during 1996-97. Petitioner protested to the said finding recorded against him by the Inquiry Officer. Ultimately, he was dismissed from service by the impugned order dated 4.12.1997 (Annexure-10) after considering his reply to the second show cause.

3. Mr. Saurav Arun, appearing for the petitioner, submitted that petitioner was not posted for realization of loan as no such thing was mentioned in the office order (Annexure-5), by which he and other managers were transferred and posted, whereas the office order dated 13.9.1996, shows that several Managers were transferred and posted for realization of loan. He further submitted that petitioner has been dismissed without any material against him.

4. It is not possible to accept the said contentions. The main work of a Branch Manager of State Co-Operative Land Development Bank is to disburse and realize loan as per the Rules and Norms of the Bank, and it was not required to be mentioned in the order of his posting. In the other office order, realization of loan, has been added as a reason of such transfer/posting. Petitioner did not raise such plea in the departmental proceeding, and rightly.

5. The other grievance is also not tenable. It is clear that petitioner was given opportunity to adduce evidence. He appeared before the Inquiry officer but there is nothing to show that he requested for adducing any oral or documentary evidence in his defence.

6. It appears that the respondents took a decision that the Branch Managers should be reposted at the same branches where they were earlier posted in order to speed up, realization of loan, and accordingly petitioner who was posted at Lohardaga for about ten years between April, 1984 to May, 1994 was reposted at

the same branch, in October, 1996 vide Annexure-5.

It was held by the disciplinary authority that while disbursing loan, he did not follow the Rules and Norms of the Bank and by making bad disbursements, he caused hindrance in the progress of the Bank and other eligible peasants. It was found that his explanations were lame excuses. He never asked for funds and therefore his explanation of shortage of funds was baseless. The excuse of non availability of the Certificate Officer was also found wrong. It was further found that he never asked for armed guard and therefore this excuse was also baseless. Petitioner asked for supply of a document during the departmental proceeding, but when he was asked about its relevance, he kept. mum.

7. Relying on the judgment reported in 2004 (2) JLJR 235 (Amrendra Narain Singh), Mr. Saurav submitted that the disciplinary authority could not take into consideration-that petitioner had bad track record and one more departmental proceeding initiated by the Vigilance Department of the Bank was pending against him, as the same was not in the charge-sheet.

8. The said case is of no help to the petitioner. In the said case, the alleged addiction to drugs and alcohol of the petitioner of that case was taken into consideration, although these charges were not included in the charge-sheet. But in the present case, the disciplinary authority recorded the finding of guilt against the petitioner and thereafter he considered his track record, for the purpose of deciding whether he should be kept in the service or not.

9. There has been no error in the departmental proceeding in question. The finding of guilt against the petitioner is based on relevant considerations. The impugned action is not mala fide. There is no perversity in the impugned order. I do not find any reason to interfere with the finding of guilt recorded against the petitioner or the punishment imposed upon him.

10. In the circumstances, this writ petition is dismissed. However, there will be no order as to costs.