REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.10180 OF 2018
(Arising out of S.L.P.(C) No. 4565 of 2018)

The Uttar Bihar Gramin Bank
& Ors. ....Appellant(s)

VERSUS

Narendra Kumar Sinha ....Respondent(s)

WITH

CIVIL APPEAL NOS.10182-10183 OF 2018
(Arising out of S.L.P.(C) Nos. 27063-27064 of 2018)
(D.No.31240 of 2018)

Narendra Kumar Sinha ....Appellant(s)

VERSUS

The Uttar Bihar Gramin Bank
& Ors. ....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

Leave granted in both the S.L.Ps.

In Civil Appeal No.....of 2018 @ S.L.P.(c) No. 4565/2018

1. This appeal is directed against the final judgment and order dated 30.11.2017 passed by the High Court of Judicature at Patna in L.P.A. No.96 of 2015 whereby the Division Bench of the High Court dismissed the appeal filed by the appellant-Bank and while modifying the order of the Single Judge dated 26.09.2014 in C.W.J.C. No.25672 of 2013 remanded the case to the Disciplinary Authority for fresh consideration.

2. Few facts need mention hereinbelow for the disposal of the appeal, which involves a short point.

3. The respondent-Narendra Kumar Sinha was in the employment of the appellant-Bank. The appellant-Bank, by order dated 16.04.2011, dismissed the respondent-employee on 3 charges on the basis of the misconduct committed by him in performance of official duties after holding departmental enquiry as

per the Service Rules. In the departmental enquiry, all the 3 charges stood proved against the respondent.

4. The respondent felt aggrieved and filed departmental appeal before the Appellate Authority as prescribed under the service rules. The Appellate Authority, by order dated 13.01.2012, dismissed the said appeal. The respondent felt aggrieved and filed writ petition (CWJC No.6915/2012) in the High Court of Patna and questioned the legality and correctness of his dismissal order and the Appellate Authority's order.

5. The Single Judge, by order dated 18.10.2012, allowed the writ petition, set aside the Appellate Authority's order and remanded the case to the Appellate Authority for fresh consideration.

6. On remand, the Appellate Authority, by order dated 06.07.2013, dismissed the respondent’s appeal and affirmed the dismissal order. The respondent felt

aggrieved and again filed writ petition (CWJC 25672/2013). The Single Judge, by order dated 26.09.2014 held that charge No. 2 is not proved and without expressing any opinion on charge Nos. 1 & 3 again remanded the matter to the Appellate Authority for rehearing on charge Nos. 1 and 3. The Single Judge also proceeded to set aside the order of dismissal.

7. The appellant-Bank felt aggrieved by the order of the Single Judge and filed Letters Patent Appeal No. 96/2015 before the Division Bench whereas the respondent (employee) also felt aggrieved by the order of the Single Judge and filed Letters Patent Appeal No.764/2015. The Division Bench disposed of both the appeals by common impugned order.

8. The Division Bench, by impugned order, dismissed the appeal filed by the appellant-Bank and while modifying the order of the Single Judge held that the Single Judge instead of remanding the case to the

Appellate Authority should have remanded it to the Disciplinary Authority for fresh decision. Accordingly, the Division Bench remanded the case to the Disciplinary Authority.

9. It is against this decision of the Division Bench, the Bank has felt aggrieved and filed this appeal by way of special leave in this Court.

10. Heard Mr. Sunil Kumar, learned senior counsel for the appellant-Bank and Mr. Vinay Navare, learned counsel for the respondent-Employee.

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to set aside the impugned order as also the order of the Single Judge and remand the case to the Single Judge for deciding the writ petition on merits.

12. In our considered opinion, the Single Judge erred in remanding the case to the Appellate Authority. It is for the reason that the Single Judge confined his

examination only to charge No. 2 and held the same as not proved whereas he failed to examine the case so far as charge Nos. 1 and 3 are concerned.

13. It should have been seen that so far as charge Nos. 1 and 3 are concerned, both were held proved against the employee in the departmental enquiry.

14. In these circumstances, the Single Judge was under legal obligation to examine each charge independently and then he should have recorded his findings on all the charges in accordance with law. It was, however, not done.

15. So far as the Division Bench is concerned, they having noticed the aforesaid error committed by the Single Judge instead of rectifying the same yet committed another error by remanding the case to the disciplinary authority instead of remanding it to the Single Judge for deciding the writ petition on merits. Remand of the case to disciplinary authority by the

Division Bench in the facts of this case, in our view, was, therefore, unjustified in the light of reasons mentioned above.

16. We are, therefore, unable to agree with the reasoning and the conclusion arrived at by the Single Judge and also the Division Bench due to the aforementioned reasons and, therefore, set aside both the orders.

17. The appeal filed by the appellant-Bank thus succeeds and is accordingly allowed. Impugned order and the order of the Single Judge are hereby set aside. The writ petition (C.W.J.C. No.25672/2013) filed by the respondent-employee is accordingly restored to its original file.

18. The Single Judge will now decide the writ petition on merits in accordance with law uninfluenced by any observations made earlier by the Single Judge and the Division Bench in their respective orders passed earlier and also by this Court.

19. Since the matter is quite old, we request the Single Judge to decide the writ petition as expeditiously as possible preferably within a period of six months.

In C.A. Nos.....of 2018
@S.L.P(c)Nos .....of 2018 (D.No.31240 of 2018)

These appeals are directed against the final judgment and order dated 30.11.2017 passed by the High Court of Judicature at Patna in L.P.A. Nos. 96 & 764 of 2015 whereby the High Court dismissed the appeal filed by the respondent-Bank and the appeal filed by the appellant-employee herein.

In view of the detailed order passed above in C.A. arising of S.L.P.(c) No.4565 of 2018 filed by the Bank, these appeals stand disposed of.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[UDAY UMESH LALIT]

New Delhi;
October 03, 2018