(2015) 07 PAT CK 0013

In the Patna High Court

Case No : Civil Review No. 44 of 2014 in Civil Writ Jurisdiction Case No. 7070 of 2013

Baldeo Prasad Gupta APPELLANT

Vs

Bank of India and Others RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Citation : (2015) 07 PAT CK 0013

Hon'ble Judges : Ravi Ranjan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dr. Ravi Ranjan, J.

1. I have heard the petitioner in person and have perused the records of the case.

2. Through this application, the petitioner seeks review of the order dated 15.01.2014 passed in C.W.J.C. No. 7070 of 2013.

3. It has been submitted by the petitioner that this Court has missed to appraise the facts, evidences, written statement and the rejoinder filed in the writ application which has been dismissed on merit by passing the impugned order. One of the grounds taken by the petitioner in the review application is that, after 20 years of his dismissal from service, the respondent-Bank of India has accepted in the supplementary counter affidavit that he had not defalcated or fraudulently withdrawn any amount from Dehri-On-Sone Branch of the Bank of India and the respondent-Bank had not sustained any loss/defalcation out of the concerned saving bank deposit accounts of the aforesaid Branch, therefore, the order of dismissal of the petitioner from his service is fit to be set aside. He also alleged that the respondent-Bank did not supply any copy of evidence or document along with the list of witnesses etc. at the time of disciplinary proceeding. It has been contended that all the earlier writ applications were dismissed on the ground taken by the respondent-Bank in the counter affidavit

that the petitioner defalcated a sum of Rs. 17,54,130.62 from the Dehri-On-Sone Branch of the Bank of India but in C.W.J.C. No. 7070 of 2013 the respondent-Bank by filing a supplementary counter affidavit has accepted that that the petitioner did not defalcate any amount, thus, the order of dismissal was fit to be set aside.

4. It appears from the final order dated 15.01.2014 passed in the aforesaid writ application that the petitioner is in habit of filing the cases repeatedly for the same cause of action, i.e., his dismissal from service. Detailed account has been given in the aforesaid order which is extracted as under for better appreciation:--

"It appears that the petitioner had approached this Court by filing C.W.J.C. No. 7062 of 1994 against the order of his dismissal from service as an officer of the respondent Bank of India which was dismissed on merits by a Bench of this Court vide order dated 28.07.1995. Against that, the petitioner preferred L.P.A. No. 1563 of 1995 which was also dismissed on 22.09.1995. The petitioner, thereafter, approached the Hon''ble Supreme Court also but there also he lost his case. He again filed second writ application bearing C.W.J.C. No. 132 of 1999 against the same cause of action for which he had approached on earlier occasion. That was also dismissed on 23.02.1999. However, it appears that an observation was given to dispose of the appeal which was pending before the respondent as per the claim of the petitioner. Thereafter, the petitioner filed M.J.C. No. 1084 of 1999 for modification of the aforesaid order dated 23.02.1999 passed in C.W.J.C. No. 132 of 1999. The stand of the respondent Bank in that case was that, since no appeal was pending, there would be no question of disposal of the appeal. In the aforementioned facts and circumstances, the aforesaid M.J.C. No. 1084 of 1999 was also dismissed as no appeal was pending before the authorities. Then again the petitioner filed M.J.C. No. 1395 of 1999 for initiating a proceeding of contempt against the opposite parties for alleged violation of the aforesaid order dated 23.02.1999 passed in C.W.J.C. No. 132 of 1999. The said petition was also dismissed vide order dated 12.03.1999 against which the petitioner again preferred L.P.A. No. 1066 of 1999 which was also dismissed by a Division Bench of this Court as not maintainable. Thereafter, the petitioner filed Civil Review No. 29 of 2000 for review of order dated 23.02.1999 passed in C.W.J.C. No. 132 of 1999 stating that the appeal filed by him on 13.10.1998 was not being disposed of by the authorities because it has not been numbered. The Civil Review was disposed of with a direction to the respondents to dispose of the said appeal filed by the petitioner, if the same was pending.

The respondent Bank authorities filed M.J.C. No. 1292 of 2000 for modification of the aforesaid order dated 08.03.2000 passed in Civil Review No. 29 of 2000 clearly stating that no appeal was pending. The said modification petition was dismissed on 17.05.2000 for the reason that the appeal was to be decided only if it was in existence.

The petitioner again filed M.J.C. No. 1814 of 2000 for initiation of proceeding of contempt for non-compliance of the order dated 08.03.2000 and also filed M.J.C.

No. 804 of 2001. Both applications were dismissed. While dismissing the M.J.C. No. 1814 of 2000, a Bench of this Court observed that repeated filing of cases by the petitioner for the self-same relief cannot be appreciated. Then again the petitioner filed third writ petition bearing C.W.J.C. No. 4087 of 2001 which was dismissed on 20.04.2001 by a Bench of this Court after observing that filing of successive writ petitions cannot be appreciated. The petitioner filed L.P.A. No. 455 of 2001 against the aforesaid order dated 20.04.2001, which was also dismissed by a Division Bench of this Court taking a serious note of the conduct of the petitioner-appellant in agitating same matter again and again which has been finally concluded by this Court holding that it amounts to gross abuse of the process of the court.

The Single Bench of this Court, taking a note of the aforesaid cases while passing the order dated 19.01.2011 in M.J.C. No. 2292 of 2010 as contained in Annexure B to the counter affidavit, has opined that the petitioner did not pay any heed to the repeated orders of various Benches of this Court including a Division Bench and after 13 years filed Civil Review No. 257 of 2008 for modification of the order dated 28.07.1995 passed in his first writ application bearing C.W.J.C. No. 7062 of 1994. The aforesaid review petition was also dismissed. Thus, the Single Bench while noticing above mentioned facts and observing that the petitioner is harping similar matter again and again, had dismissed the M.J.C. No. 2292 of 2010 vide the order as contained in Annexure B to the counter affidavit, recording observation that the act of the petitioner by filing frivolous petitions before this Court in one shape or the other was fit to be deprecated and normally in such matter heavy cost could have been levied upon the petitioner but considering the fact that the petitioner is appearing in person, no cost was imposed.

Thereafter, again the present writ petition has been filed by the petitioner."

5. This Court has come to the conclusion that, the matter having finally been set at rest by passing several orders as discussed in the aforesaid order and one of the matter having travelled up to the Apex Court, the petitioner cannot be allowed to re-agitate the issue of dismissal from service again and again. This Court has also noticed that in one of the decisions passed by a Single Bench of this Court, it was observed that the case was fit to be dismissed with heavy cost but considering the fact that the petitioner was appearing in person no cost was ultimately imposed.

6. So far the statement made by the respondent-Bank in the supplementary counter affidavit filed in the aforesaid writ application is concerned, it has been clearly stated that the Manager of the Dehri-On-Sone Branch of the Bank of India had informed the Zonal Manager that the fictitious credit entries were made and the same were posted, checked and signed by the petitioner for an amount of Rs. 17,54,130.62 in his Saving Bank Account jointly with his close relatives which were maintained at the Dehri-On-Sone Branch of the Bank of India and the allegations were proved against him. It has further been stated that due to prompt and vigilant action of the respondent Bank the rectification of the entries

were done by rewriting of new ledgers, omitting fictitious entries and redrawing the correct balance in the concerned Saving Bank Accounts and the amounts were not allowed to be withdrawn from the accounts after fictitious entries.

7. The Article of Charges has also been appended as Annexure F to the aforesaid affidavit which is extracted as under for the better appreciation :--

"ARTICLE OF CHARGES

During the course of your duties as staff-officer at Dehri-On-Sone Branch from 28.6.90 to 14.3.1992 act of misconduct as hereinafter mentioned, are alleged to have been committed by you.

ARTICLE-I

While working as staff-officer of Dehri-On-Sone Branch, with your ulterior motive to defraud the bank, you entered, posted, checked and signed fictitious posting of credit entries to the tune of Rupees 17,54,130=62(Rupees Seventeen lac fifty four thousand one hundred thirty and paise sixty two) in the accounts of yourself (jointly with your wife and son), your wife(jointly with your son), Your sons and close relatives, which accounts were opened in recent past and were introduced by you and your son. You also issued cheque books in these accounts under your initial with your ulterior motive to withdraw the amount and defraud the bank.

2. Your aforesaid acts amounts to act of misconduct as you failed to take all possible steps to ensure and protect the interest of the Bank and discharge your duties with utmost integrity, honesty, devotion and diligence and acted in a manner unbecoming a Bank Officer, thereby committing breach of Regulation 3(I) of the Bank of India Officer Employees(conduct) Regulation 1976, constituting acts of misconduct in terms of Regulation 24 of the said Regulations.

3. Clause 3(I) of the Bank of India Employees(conduct) Regulation 1976 reads as under:

"Every officer employee shall, at all times, take all possible steps to ensure and protect the interest of the bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing with is unbecoming of a Bank Officer."

REGIONAL MANAGER SIWN REGION AND DISCIPLINARY AUTHORITY"

8. It appears from the Article of Charges also that the allegation was that the petitioner with mala fide intention had entered, posted, checked and signed fictitious posting of credit entries to the tune of Rs. 17,54,130.62 in his Saving Bank Account jointly with his close relatives with ulterior motive to defraud the Bank concerned and withdraw the amount. It has never been the case of the respondent-Bank that the petitioner has succeeded in withdrawing the aforesaid amount after making such wrong entries. However, the charge was that his act of making such wrong credit entries for benefiting him and causing huge loss of public money was an act of misconduct, therefore, in my considered opinion,

there is no departure in the stand of the respondent-Bank from its earlier stand.

9. That apart, the matter having been already set at rest in a fresh writ applications filed for the same cause of action, this Court could not have sat in appeal. As stated above, one of such case was considered and dismissed by a Division Bench of this Court and another one had travelled up to the Apex Court also.

10. As a result, this Court does not find any merit in the Civil Review Application and, accordingly, the same is dismissed.