

(2015) 12 PAT CK 0080

In the Patna High Court

Case No : Letters Patent Appeal No. 1603 of 2015 in Civil Writ Jurisdiction Case No. 7070 of 2013

Baldeo Prasad Gupta

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 16-12-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 12 PAT CK 0080

Hon'ble Judges : I.A. Ansari, Actg. C.J. and Chakradhari Sharan Singh, J.

Bench : Division Bench

Advocate : Rupak Kumar, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J.—The appellant, in the present intra-Court appeal, under Clause 10 of the Letters Patent of this High Court, has assailed the judgment and order, dated 08.07.2015, passed by the learned single Judge of this Court, in Civil Review No. 44 of 2014 [Baldeo Prasad Gupta v. Bank of India and Others], whereby his petition, seeking review of an order, dated 15.01.2014, passed in C.W.J.C. No. 7070 of 2013, has been dismissed.

2. We have heard the appellant, Mr. Baldeo Prasad Gupta, in-person, and Mr. Rupak Kumar, learned counsel, appearing on behalf of the respondents-Bank of India.

3. At the outset Mr. Rupak Kumar, learned counsel, appearing on behalf of the respondents, Bank of India, has pointed out that though the appellant has appealed against the judgment passed in civil review by a learned single Judge in the present appeal, he has, however, not questioned the legality of the original order, passed in the writ proceedings, dated 15.01.2014.

4. The appellant was an employee under the Bank of India and on the basis of a departmental proceeding, initiated against him, while he was posted at Dehri-On-

Sone, he was dismissed from service by an order, dated 11.12.1993, passed by the Disciplinary Authority. Service appeal preferred by him, against the order of dismissal, came to be rejected by an order, dated 12.05.1994, passed by the Appellate Authority. An application, preferred by the appellant, under Article 226 of the Constitution of India, giving rise to C.W.J.C. No. 7062 of 1994, challenging the disciplinary action of dismissal from service, was dismissed by this Court by an order, dated 28.07.1995. He preferred an appeal, thereafter, under the Letters Patent of this Court, against the said order, dated 28.07.1995, passed in C.W.J.C. No. 7062 of 1994, giving rise to L.P.A. No. 1563 of 1995, which was also dismissed by an order, dated 22.09.1995. Special leave petition, preferred by the appellant against the said order, dated 22.09.1995, too, was, admittedly, dismissed, though no date of dismissal of the Special leave petition has been provided to us by the appellant.

5. It appears that the appellant had filed a review application against the order, dated 12.05.1994, of his dismissal, which was dismissed on 13.11.1995. Questioning the action of dismissal from service, he, again, filed a writ application, under Article 226 of the Constitution of India, giving rise to C.W.J.C. No. 132 of 1999, which came to be dismissed, on 23.02.1999, though with an observation to dispose of his appeal, which, according to him, was pending before the respondents, though no such appeal was pending. The appellant, subsequently, filed modification application, being M.J.C. No. 1084 of 1999, and a contempt petition, being M.J.C. No. 1395 of 1999. The contempt petition was dismissed by an order, dated 12.03.1999, against which the appellant had preferred L.P.A. No. 1066 of 1999. The said appeal was also dismissed.

6. It appears that the appellant, subsequently, filed M.J.C. No. 1814 of 2000 for initiation of contempt proceeding alleging non-compliance of an order, dated 08.03.2000. While dismissing the said M.J.C. No. 1814 of 2000, this Court deprecated the conduct of the appellant of filing of cases repeatedly seeking same relief.

7. The appellant, again, filed a writ application, under Article 226 of the Constitution of India, giving rise to C.W.J.C. No. 4087 of 2001, which, too, was dismissed by an order, dated 20.04.2001, whereby the Court, again, deprecating the conduct of the appellant for filing successive applications. Thereafter, the appellant preferred an appeal, under the Letters Patent of this Court, giving rise to L.P.A. No. 455 of 2001, which was also dismissed. The appellant had preferred an application for initiating contempt proceeding against the opposite parties for disobedience of this Court's order, dated 27.01.2009, passed in Civil Review No. 257 of 2008, which was dismissed in the following terms:-

"In view of the fact that the said order of this court sought to be reviewed has been affirmed up to the Hon'ble Apex court as well as the orders passed in L.P.A. No. 455 of 2001 taking serious note of the conduct of the petitioner in agitating the same matter again and again which had been finally concluded by the court of law resulting in gross abuse of the process of the court, there is no occasion

for reviewing the said order passed in C.W.J.C. No. 7062 of 1994, specially because this court does not find any error apparent on the fact of the record, nor there is any fresh material to take a different view; nor does this court find any other reason to review the said order. Accordingly, this review petition is dismissed."

8. Noticing the fact that for the same cause of action, the appellant had been repeatedly filing one case or the other, the learned single Judge of this Court has dismissed M.J.C. No. 2292 of 2010, by an order, dated 19.01.2011, in the following term:-

"In the said circumstances this court does not find any merit in the contentions of the petitioner. The act of the petitioner by continuously filing frivolous petitions before this court in one shape or the other is highly deprecated and normally in such matter heavy cost should have been levied on the petitioner, but considering the fact that the petitioner is appearing in person no order for cost is being passed.

Accordingly, this M.J.C. petition is dismissed."

(Emphasis supplied)

9. The appellant, thereafter, filed a writ application, under Article 226 of the Constitution of India, giving rise to C.W.J.C. No. 7070 of 2013, seeking direction for payment of post-retiral benefits knowing well that he was not entitled to the same, because of the fact that he was dismissed from service. The aforesaid writ application came to be dismissed by an order, dated 15.01.2014. The appellant, thereafter, filed a review application, being Civil Review No. 44 of 2014, seeking review of the order, dated 15.01.2014, which came to be dismissed by judgment and order, dated 08.07.2015 and is under appeal in the present proceeding.

10. In response to a query made by this Court, the appellant has himself submitted that he would not be entitled to post-retiral benefits, as claimed by him in C.W.J.C. No. 7070 of 2013, until the order, imposing punishment of dismissal from service, is interfered with.

11. We have noticed and discussed above, the order imposing upon the appellant punishment of dismissal from Bank service has not been interfered with, by any Court, up to the Supreme Court. The aforementioned facts demonstrate that the appellant has been making unnecessary attempts to overcome the order of dismissal by filing repeated applications/appeals before this Court, which have been rejected on all previous occasions.

12. In the background of the facts as narrated above, we do not find any reason to interfere with the order, under appeal, passed by the learned single Judge on a review petition preferred by the appellant. We do not find any factual or legal error, which can be said to have occurred in the order, under appeal, warranting our interference in the present intra-Court appeal under Clause 10 of the Letters Patent of this Court.

13. We, at the same time, deprecate the conduct of the appellant for filing repeated applications before this Court despite the fact that the order, imposing punishment of dismissal from Bank service, attained finality several years ago, up to the level of Supreme Court. We would have, but for the reason that the appellant has appeared in-person, imposed heavy cost for filing frivolous applications/appeals. We, at the same time, forewarn him that repetition of such conduct will be viewed seriously and the Court would, in such circumstance, consider imposing exemplary cost.

14. This appeal stands dismissed with the observations as above.