
(2003) 09 AHC CK 0105

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 5516 of 1987

Gopi Krishna Mehrotra

APPELLANT

Vs

Allahabad Bank and Others

RESPONDENT

Date of Decision : 10-09-2003

Acts Referred:

Citation : (2004) 1 UPLBEC 71

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

**Advocate : Arun Tandon, Sudhir Mehrotra and S.K. Mehrotra, for the Appellant;
T.P. Singh and Rakesh Mishra, for the Respondent**

Judgement

Vineet Saran, J.—The petitioner was working as Branch Manager in the Allahabad Bank and in the year 1982, the disciplinary proceedings were initiated against him and a charge-sheet was served on 25.6.1982. After enquiry, the Competent Authority, vide its order dated 29.1.1986, imposed a major penalty and reduced four annual increments of the petitioner and thus, the pay of the petitioner was reduced from Rs. 1800/- to Rs. 1560/- per month. The petitioner filed an appeal against the said order under Regulation 17(ii) of the Officer Employees' (Conduct) Regulations and Discipline and Appeal Regulations of the Allahabad Bank. Since, the appeal was filed beyond the period of limitation for 45 days, an application under Regulation 21 had also been filed with a prayer for condonation of delay in filing the appeal. The Appellate Authority-respondent No. 3 vide its order dated 12.1.1986 rejected the application for condonation of delay. Aggrieved by the same, petitioner has filed this writ petition challenging the order dated 12.12.1986 passed by the Appellate-Authority respondent No. 3 as well as the order dated 29.1.1986 passed by the Competent Authority, respondent No. 2 imposing major penalty on the petitioner.

2. I have heard Sri Arun Tandon, learned Counsel for the petitioner assisted by Sri S.K. Mehrotra as well as Sri Rakesh Mishra, learned Counsel appearing for the respondents and also perused the record.

3. The application for condonation of delay has been rejected by the impugned order dated 12.12.1986 merely by saying that "on perusal of request letter, I do not find any good and/or sufficient ground for condoning the delay". Sri Arun Tandon, learned Counsel appearing for the petitioner has submitted before me that the said order has been passed without application of mind and without considering the grounds taken by the petitioner in its application for condoning the delay in filing the appeal.

4. I have perused the said application, copy of which has been filed as Annexure No. 7 to this writ petition. The petitioner has explained that since another proceedings against the petitioner was also pending and both the proceedings were going on simultaneously, the petitioner was under a bona fide belief that a consolidated appeal in both the matters could be filed and thus, awaited for the orders to be passed in the other proceedings, which was also before the same Disciplinary Authority. Since, the order in the other proceedings was passed on 6.6.1986 and copy served on the petitioner on 13.6.1986, both the appeals were filed by the petitioner within the period of 45 days from 13.6.1986.

5. In my view, the Appellate Authority ought to have considered such specific grounds taken in the application for condonation of delay and should not have rejected the application in a mechanical manner by a simple one line observation that no good and/or sufficient ground has been made out. Regulation 21 gives the power to the Appellate Authority to condone the delay for good and sufficient reasons or if sufficient cause is shown. The Appellate Authority did not consider the application on merits regarding the sufficiency of the cause shown. The Departmental Authorities ought to consider such matters of its employees sympathetically and not reject the same on technicalities.

6. Having heard learned Counsel for the parties, I am of the view that the impugned order dated 12.12.1986, deserves to be set-aside as sufficient cause for delay in filing the appeal had been shown by the petitioner. Since, the Appellate Authority has not considered the appeal on merits, I am not inclined to go into the merits of the order dated 29.1.86 passed by the Disciplinary Authority. Accordingly, the order dated 12.12.1986 is quashed. The matter is remitted back to the Appellate Authority-respondent No. 3, General Manager, Allahabad Bank, Calcutta for deciding the appeal of the petitioner filed against the order dated 29.1.1986 on merits. Since, the case has been pending in this Court since 1987, it is expected that the Appellate Authority shall decide the appeal in accordance with law by a speaking and reasoned order expeditiously, preferably within a period of three months from the production of a certified copy of this order before respondent No. 3, after affording adequate opportunity of hearing to the petitioner and other interested parties, if there be any.

7. The writ petition is partly allowed. There shall be no order as to costs.