

(2017) 12 PAT CK 0042

In the Patna High Court

Case No : Letters Patent Appeal No. 1485 Of 2017

Manoj Kumar Pandey

APPELLANT

Vs

State Bank Of India And Ors

RESPONDENT

Date of Decision : 11-12-2017

Acts Referred:

Citation : (2018) 2 PLJR 735

Hon'ble Judges : Rajendra Menon, CJ; Anil Kumar Upadhyay, J

Bench : Division Bench

Advocate : Bipin Kumar, Kaushlendra Kumar Sinha

Final Decision : Dismissed

Judgement

Rajendra Menon, CJ

1. Delay of 13 days in filing of the appeal is condoned. I.A. No. 7650 of 2017 stands allowed and disposed of.

2. Seeking exception to an order dated 24.08.2017 passed by the learned Writ Court in C.W.J.C. No. 8381 of 2014 this appeal has been filed by the appellant under Clause 10 of the Letters Patent.

3. The appellant was appointed on a clerical post in the State Bank of India on 14.08.2009 in pursuance to an advertisement issued on 31.07.2009. He

appeared in the written test after filling up the form and he was granted appointment as an Assistant on 15.12.2010. However, it transpired that

appellant was earlier working with the Central Bank of India. He was posted in Narayanpur Bahuli Branch, Bagha, West Champaran. He was

involved in a fraud to the tune of Rs. 1.79 crore during the period March, 2010 to September 2010. A criminal case was lodged against him. C.B.I.

was investigating into the matter and before joining in the State Bank of India he

filed an affidavit declaring that after retirement from Indian Air Force he had not served anywhere and is seeking appointment or employment with the State Bank of India as an Ex Serviceman. It was found that he has suppressed the fact about his working with the Central Bank of India and has given a false affidavit. A departmental inquiry was conducted and in the inquiry the allegation having been found proved, his services were dispensed with. Challenge to the same having failed with the Writ Court, this appeal under Clause 10 of the Letters Patent.

4. Learned counsel for the appellant vehemently argued that there was no suppression of fact, he was exonerated in the investigation by the Central Bureau of Investigation and he had resigned from the service of the Central Bank of India. The learned Writ Court has gone into various aspects of the matter and in Paragraphs 9, 10 and 11 has discussed the question with regard to suppression of fact by the appellant in the following manner:-

“9. From perusal of the form filled up by the petitioner it appears that petitioner has categorically stated that his previous employer is Indian Air Force but at the time of appointment the petitioner filed affidavit (Annexure-D) stating that “I am aware that the ex-servicemen candidates who have already secured employment in Government/Public Sector undertakings after availing benefit of reservation of ex-servicemen will not be eligible for the benefit of ex-servicemen once again.

I am also aware that when an ex-servicemen who has once joined a Government/Public Sector undertaking job on the civil side, after availing benefits to him as an ex-serviceman, his ex-serviceman status for the purpose of re-employment in job ceases.

I have not secured any employment in any Government/Public Sector undertaking either before or after the date of interview held in respect of the recruitment of clerk in State Bank of India (2009-10) and that I am eligible to the reservation/quota for ex-servicemen in the recruitment being done by the State Bank of India”.

10. On perusal of the averments made by the petitioner in the application form filled up by him and the contents of the affidavit filed by the petitioner at the time of his appointment on the post of clerk in the State Bank of India, it is apparent that the petitioner has concealed this fact that he was appointed in the Central Bank of India on 11.12.2009 and joined the Central

Bank of India on 15.12.2009. The petitioner resigned from the service of Central Bank of India on 18.11.2010 but he did not get the NOC from the Central Bank of India besides the fact of lodging of a case of fraud in the borrowal accounts in the branch of Central Bank of India where the petitioner was posted, although this charge has not been proved by the enquiry officer. The enquiry officer has also stated that the petitioner in the form has mentioned that he remained in the service of Indian Air Force since 15.04.1988 to 30.04.2008 as Sergeant (Technical) but he did not disclose the facts in his affidavit that after retirement from Indian Air Force he joined the Central Bank of India.

11. Thus, it appears that petitioner has suppressed material facts and when a candidate suppresses material facts or gives false information he cannot claim any right for appointment or continuance in service and there cannot be any dispute with this proposition of law. The enquiry officer has also found that the petitioner committed gross misconduct only because he concealed the material facts with regard to his employment in any Public Sector bank before getting appointment in the State Bank of India. Admittedly, the petitioner remained in service of Central Bank of India for about one year and just before issuance of the appointment letter by the State Bank of India the petitioner, well conversant of the facts of his earlier appointment in the Central Bank of India leading to disqualification of his appointment in a Public Sector bank, got job in another Public Sector bank, and did not furnish correct information and submitted false affidavit.â??

5. The aforesaid finding recorded by the learned Writ Court is based on due appreciation of the material available on record and we see no reason to make any indulgence into the matter. The Letters Patent Appeal is, therefore, dismissed.