

(2009) 01 SC CK 0178

In the Supreme Court Of India

Case No : Civil Appeal No. 14 of 2009 (Arising out of SLP (C) No. 19390 of 2006)

Punjab National Bank and Another

APPELLANT

Vs

O.N. Sharma and Others

RESPONDENT

Date of Decision : 05-01-2009

Acts Referred:

Citation : (2009) 01 SC CK 0178

Hon'ble Judges : Cyriac Joseph, J;Altamas kabir, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. Despite notice of the SLP having been served on the respondents, who have received notice personally, there is no appearance on their behalf. Since such notices have been served in the month of February, 2008, fresh notices were also directed to be served, which were issued in August, 2008. Even then, there is no appearance on behalf of the respondents and in particular respondent No. 1, who is the contesting respondent.

3. The only question which arises for consideration in this appeal is whether the respondent was entitled to a personal hearing at the appellate stage when he had filed an appeal before the Appellate Authority against the order of the Disciplinary Authority, by which he had been awarded punishment of withdrawal of special pay as Special Assistant for 2 years under Clause 6(g) of the Bipartite Settlement arrived at between the management and the workmen. Mr. Mehta, appearing in support of the appeal, has drawn our attention to the procedure for taking disciplinary action, as was indicated in the Bipartite Settlement and has laid special emphasis on paragraph 14 of the same which indicates that at the appellate stage, if an employee, who has been dismissed from service, asks for personal hearing, such prayer could be granted by the Appellate Authority. In other cases, no such provision has been made.

4. Mr. Mehta submitted that at the time of the disciplinary proceedings, the respondent was given all opportunities to defend himself and has also been given a hearing by the Disciplinary Authority. Mr. Mehta has also referred to and relied on the decision of this Court in *State Bank of Patiala v. Mahendra Kumar Singhal*, 1994 Suppl. (2) SCC 463 , where in a similar situation, it was observed that the rules of natural justice did not necessarily in all cases confer a right to be heard personally at the appellate stage unless there was a rule to the contrary. In fact, such an observation was made following the Constitution Bench decision of this Court in *F.N. Roy Vs. Collector of Customs, Calcutta*, .

5. The facts of the case of this appeal being similar, we are unable to sustain the order of the High Court impugned in this appeal remitting the matter to the Appellate Authority for giving the respondent a personal hearing.

6. We, accordingly, set aside the impugned judgment of the High Court and remit the matter to the High Court for fresh consideration with leave to the respondent to raise the other questions taken in the writ petition, which do not appear to have been gone into by the High Court, since the submissions before the High Court were confined only to the question as to whether the respondent was entitled to a personal hearing before the Appellate Authority.

7. The Civil Appeal is allowed in the above terms.

8. There will be no order as to costs.