

(2025) 10 GAU CK 1136
In the Gauhati High Court
Case No : WP(C) Of 2291 Of 2020

Punjab National Bank

APPELLANT

Vs

Nipul Chandra Das And Anr

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(A)

Citation : (2025) 10 GAU CK 1136

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : S. Dutta, K. Borah, S. Chakraborty, K. Gogoi

Final Decision : Disposed Of

Judgement

Devashis Baruah, J

1. Heard Mr. S. Dutta, the learned Senior Counsel assisted by Ms. K. Borah, the learned counsel who appears on behalf of the petitioner; Mr. S. Chakraborty, the learned counsel who appears on behalf of the respondent No.1 and Mr. K. Gogoi, the learned counsel appears on behalf of the respondent No.2.

2. The petitioner herein has assailed the award dated 20.11.2019 passed by the learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam in Reference Case No.3/2019.

3. The facts which led to the filing of the instant writ petition are that the respondent No.1 herein was appointed as a part-time Sweeper at United Bank of India, Gourisagar Branch, Sivasagar on 01.07.2009 and on 01.04.2016, he was posted as House Keeping-cum-Sub-Staff according to eligibility and governed by the terms and conditions of service in terms of the bipartite settlement.

4. It is alleged that on 26.10.2016, one Sri Dilip Kumar Gupta, Manager of Gourisagar Branch had lodged complaint against the respondent No.1 that he shouted and scolded using abusive language against the Manager and brought an

iron rod to hit the Manager of the Branch. It was also alleged that the respondent No.1 threatened the life of the Manager and also snatched his cell phone when the Manager tried to contact the Chief Regional Manager, Sivasagar Region and all these incidents occurred in the Branch. On the basis of the said incident, as alleged, the respondent No.1 was called for explanation vide letter dated 26.10.2016 by the Branch Authority of the Gourisagar Branch and the respondent No.1 submitted a reply. Pursuant thereto, a preliminary enquiry was held and on the basis of the report submitted, the respondent No.1 was put under suspension vide the order dated 31.10.2016. Thereupon, the respondent No.1 was charge sheeted. Pursuant to the said charge sheet, a domestic enquiry proceedings was initiated against the respondent No.1. After evidence being led, the Enquiry Officer submitted a report holding that the respondent No.1 was guilty of the offence charged. The respondent No.1 thereupon was furnished with the enquiry report and issued a show-cause as to why punishment of dismissal should not be imposed upon him. The respondent No.1 submitted his representation, and as the representation did not find favour with the Management of the petitioner, the respondent No.1 was dismissed from service.

5. Pursuant thereto, the respondent No.1 filed an application before the learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam (hereinafter after referred to as the learned Tribunal) under Section 2A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947') and on the basis thereof, a Reference Case No.3/2019 was registered by the learned Tribunal. The respondent No.1 filed his written statement. On behalf of the petitioner, a written objection was filed by an authorized signatory of the petitioner. On the basis of the pleadings, the learned Tribunal framed as many as five issues which being relevant are reproduced herein under:-

1. Whether the Management of United Bank of India is justified in ousting the workman from his employment on 26.10.2016?
2. Whether the Management of United Bank of India is justified in suspending the Workman on 31.10.2016?
3. Whether the departmental enquiry against the workman was proper and fair?
4. Whether the dismissal from service awarded to the workman is proper and just?
5. If the answer of the above questions is yes or not, what relief the workman is entitled to?"
6. The materials on record having been perused reveal that none has appeared on behalf of the petitioner since the submission of the written objection and on the other hand, the respondent No.1 appeared and submitted his evidence on affidavit. As the Management of the petitioner did not appear, the respondent No.1 was not cross-examined. The learned Tribunal, vide the impugned award dated 20.11.2019 without deciding the issues in the manner in which it ought to

have been done held that the termination of the respondent No.1 was not justified and directed the Management of the petitioner to reinstate the respondent No.1 to his job and pay him back wages from the date of his dismissal within 60 days from the date of receipt of the award. It is under such circumstances, the present writ petition has been filed.

7. It is relevant to take note of that this Court vide an order dated 20.10.2020, issued notice and stayed the impugned award dated 20.11.2019.

8. Mr. S. Dutta, the learned Senior Counsel appearing on behalf of the petitioner submitted that a panel Advocate of the petitioner was instructed to appear on behalf of the petitioner, but the said panel Advocate neither appeared nor informed the petitioner that he was not appearing in the said reference proceedings. Under such circumstances, the entire proceedings went ex parte against the petitioner. The learned Senior Counsel further submitted that when issues have been framed by the learned Tribunal, it was incumbent upon the learned Tribunal to decide the issues so framed on the basis of the evidence which was not done as would be apparent from a perusal of the impugned award itself.

9. Per contra, Mr. S. Chakraborty, the learned counsel appearing on behalf of the respondent No.1 submitted that the proceedings went ex parte against the petitioner on account of the fault of the petitioner and there is no good explanation provided before this Court as to why the proceedings had proceeded ex parte against the petitioner. The learned counsel submitted that the reason so assigned is that the counsel did not appear on behalf of the petitioner before the learned Tribunal. But on the other hand, it was some authorized signatory of the petitioner who had submitted the written statement, and as such, the question that the petitioner had appointed some lawyer to represent the petitioner before the Tribunal cannot be accepted.

10. I have heard the learned counsels appearing on behalf of the parties and have perused the materials on record. In the previous segments of the instant judgment, this Court has duly taken note of that the learned Tribunal, on the basis of the pleadings, has framed as many as five issues, which have been reproduced hereinabove. From a perusal of the five issues, it reveals that there was a requirement for adjudication of facts, more particularly, when the workman in his own written statement had categorically mentioned that there was a domestic enquiry proceedings, and in the domestic enquiry proceedings, the respondent No.1 was found to be guilty of the offence charged and the respondent No.1 was also further given opportunity to submit as regards the imposition of punishment.

11. It is further seen from the impugned award that the learned Labour Court had come to an opinion that there was a violation of principles of natural justice. But, there was nothing mentioned as to why it was opined that the principles of natural justice have been violated.

12. This Court further takes note of that the learned Labour Court instead of deciding the issues which have been formulated, in a most perfunctory manner, decided the entire award against the petitioner. Under such circumstances, it is the opinion of this Court that the industrial dispute in question requires a resolution in a proper manner, and as such, it is therefore the opinion of this Court that this is a fit case for remand before the learned Tribunal, i.e. the Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam to decide afresh the Reference Case No.3/2019.

13. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The award dated 20.11.2019 passed in Reference Case No.3/2019 stands set aside and quashed.

(ii) The learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam is directed to decide afresh the Reference Case No.3/2019 from the stage of providing opportunity to both the parties to adduce evidence.

(iii) Taking into account that both the parties are duly represented, they are directed to appear before the learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, on 01.12.2025.

(iv) The Registry of this Court is directed forthwith to remit the records to the learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam so that the records are available on the next date.

(v) The observations and findings made in the present order shall not effect either of the parties in the proceedings before the learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam.