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(2019) 03 UK CK 0148

In the Uttarakhand High Court

Case No : Special Appeal No. 219 Of 2019 With Delay Condonation Application No. 3550 Of 2019

Sandeep Anand — APPELLANT

Vs

Punjab National Bank & Others — RESPONDENT

Date of Decision : 29-03-2019

Acts Referred:

Citation : (2019) 03 UK CK 0148

Hon'ble Judges : Ramesh Ranganathan, CJ;N.S. Dhanik, J

Bench : Division Bench

Advocate : Parikshit Saini, S.K. Jain, Siddhartha Jain

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, CJ

1. The delay of 37 days in preferring the appeal is not opposed and the delay is, therefore, condoned.

2. Heard Sri Prakishit Saini, learned counsel for the appellant and Sri S.K. Jain, learned Senior Counsel appearing on behalf of the respondents and, with their consent, the appeal is disposed of at the stage of admission.

3. The appellant-writ petitioner was working as a Head Cashier, Rudrapur, I.I.E. Branch Kashipur of the Punjab National Bank. On allegations of misconduct, he was placed under suspension by order dated 17.06.2013, and a disciplinary inquiry was held against him. On completion of the disciplinary inquiry, the appellant-writ petitioner's services were terminated, and he was imposed the punishment of dismissal from service w.e.f. 29.09.2016. Aggrieved thereby, the appellant preferred an appeal to the Appellate Authority who, by his order dated 20.03.2018, set-aside the order of punishment, and directed that a de novo inquiry be held against the appellant-writ petitioner. The petitioner was, in terms of the regulations, deemed to continue under suspension till the completion of the fresh inquiry ordered by the Appellate Authority. The petitioner invoked the

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jurisdiction of this Court contending that he was entitled to be paid the differential salary from the date of his suspension i.e. from 17.06.2013 till 20.03.2018, and to be continued in Service thereafter.

4. In the order under appeal, the learned Single Judge, while disposing of the writ petition, held that the appellant-writ petitioner would be entitled to be paid arrears of subsistence allowance, if any, from the date on which the Appellate Authority passed the order i.e. on 20.03.2018. Aggrieved thereby the present appeal.

5. Sri Parikshit Saini, learned counsel for the appellant-writ petitioner, initially contended that the appellant-writ petitioner was entitled to be paid the differential salary ever since the date of his initial suspension on 17.06.2013 till 20.03.2018, and to be taken back into services from that date. However, on being pointed out that the regulations stipulate that the consequence of the order of the Appellate Authority, whereby the Bank was directed to continue the disciplinary inquiry afresh, was that the appellant-writ petitioner must be deemed to be under suspension, learned counsel would then submit that the appellant-writ petitioner was, atleast, entitled to be paid his subsistence allowance from 29.09.2016 when his services were terminated till the Appellate Authority passed the order dated 20.03.2018, and thereafter.

6. Sri Parikshit Saini, learned counsel for the appellant-writ petitioner, would fairly state that the appellant-writ petitioner is being paid subsistence allowance each month from the date of the order of the Appellate Authority i.e. 20.03.2018. The only dispute which survives in this appeal is regarding the appellant-writ petitioner's entitlement to be paid subsistence allowance from 29.09.2016 till 20.03.2018.

7. We find considerable force in the submissions of Sri Parikshit Saini, learned counsel for the appellant-writ petitioner, that, even if the petitioner is held to be deemed to be under suspension from the date on which the order of termination was passed on 29.09.2016 till completion of the fresh departmental inquiry, he would nonetheless be entitled to be paid subsistence allowance from 29.09.2016 till 20.03.2018. This amount shall be paid to him within one month from the date of production of a copy of this order. Needless to state that till the disciplinary inquiry is completed, and orders are passed thereafter, the petitioner shall be continued to be paid his subsistence allowance every month.

8. The Special Appeal stands disposed of accordingly.

No costs.

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