
(2014) 01 PAT CK 0024
In the Patna High Court
Case No : CWJC No. 18698 of 2010

Shashi Bhushan Thakur

APPELLANT

Vs

Punjab National Bank and Others

RESPONDENT

Date of Decision : 13-01-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 3 PLJR 302

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Ajeet Kumar and Nalin Vilochan Tiwary, Advocate for the Appellant;
Prasant Vedasen, Advocate for the Respondent;

Final Decision : Allowed

Judgement

Chakradhari Sharan Singh, J.

1. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondent, Punjab National Bank and its officials. The petitioner is aggrieved by an order dated 17.9.2010 passed by the Deputy General Manager, Appellate Authority, whereby he has affirmed the punishment order dated 18.6.2010 passed by the then Chief Manager (Disciplinary Authority) imposing upon the petitioner, punishment of removal from service with superannuation benefits, in terms of Clause 6(b) of bipartite settlement dated 10.4.2002.

2. The petitioner was posted as Clerk-cum-Cashier at Branch Office, Nawada, Govindganj (East Champaran) of the Bank. A proceeding was initiated against him for certain charges. Enquiry was conducted and the Enquiry Officer submitted his enquiry report holding the petitioner guilty of some of the charges. The Disciplinary Authority, on the basis of the report of the Enquiry Officer and other materials available on record, came to a finding that petitioner was guilty of charge No. 5 also, which was not found to be proved by the Enquiry Officer. Disciplinary Authority, accordingly, imposed the aforesaid punishment. The

petitioner preferred an appeal before the Deputy General Manager (Appellate Authority) against the order of punishment which came to be rejected by an order dated 17.9.2010 which is impugned in the present application. The order of the Disciplinary Authority imposing punishment upon the petitioner has also been challenged in the present writ application.

3. A counter affidavit has been filed on behalf of the respondent Bank taking a preliminary objection that the petitioner being a workman within the meaning of Industrial Disputes Act could have taken recourse to the provisions of the Industrial Disputes Act for the relief as claimed for in the present writ application. It has been contended that having not done so, this writ application under Article 226 is not maintainable.

4. Learned counsel appearing on behalf the petitioner challenging the impugned appellate order, contends that there is complete non-application of the mind by the Appellate Authority inasmuch as it does not reflect consideration of the grounds taken by the petitioner in his memorandum of appeal. He submitted that even such grounds which have been taken note of by the Appellate Authority have not been dealt in the appellate order. He submits that this is an apparent violation of the principle of natural justice and that the Appellate authority, acting as a quasi judicial Authority, was required to consider the points raised in the Memorandum of Appeal and assign reasons for rejecting such grounds. This having been not done, plea of non-maintainability, this application, on the ground of availability of alternative remedy should not be entertained.

5. It is evident from the impugned appellate order dated 17.10.2010 that the point raised by the petitioner, though taken note of, in the appellate order has not been dealt. It seems that petitioner took specific plea to the effect that the advances which were made to him, were not for his personal use but for the Bank Workmen and the entries were subsequently adjusted in due course without any delay. I do not find any discussion in the impugned order on this point. The impugned order passed by the Appellate Authority, on the face of it, is devoid of reason and cannot be sustained. In my view, availability of alternative remedy is not absolute bar for this Court to interfere in exercise of jurisdiction under Article 226 of the Constitution of India. Since, I find the Appellate order to be patently illegal being devoid of reason, I set aside the same with a direction to the Deputy General Manager, Circle Office, Muzaffarpur (respondent No. 2) to pass an order afresh on the appeal preferred by the petitioner. This application is allowed, with the observation as above.