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**(2012) 08 DEL CK 0470**

**In the Delhi High Court**

**Case No : Writ Petition (C) No. 1037 of 1998**

Shri D.C. Sharma

APPELLANT

Vs

Canara Bank

RESPONDENT

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**Date of Decision : 24-08-2012**

**Acts Referred:**

**Citation : (2012) 08 DEL CK 0470**

**Hon'ble Judges : Rajiv Sahai Endlaw, J**

**Bench : Single Bench**

**Advocate : D.K. Yati, for the Appellant;**

**Final Decision : Dismissed**

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## **Judgement**

Rajiv Sahai Endlaw, J.

CM No. 10555/2012 (for exemption).

1. Allowed, subject to just exceptions.

Review Petition No. 470/2012.

Review is sought of the judgment dated 11th July, 2012 dismissing the writ petition preferred by the review petitioner, in the absence of the review petitioner or his counsel. The counsel has in the application given the reasons for non-appearance of the review petitioner and his counsel on 11th July, 2012. Without going into the said aspect, the counsel for the review petitioner has been heard on merits of the writ petition.

2. The counsel for the writ petitioner has raised two submissions. Firstly, it is contended that the review petitioner was furnished a copy of the report of the departmental inquiry along with the order imposing punishment of dismissal from service. It is contended that the inquiry report is required to be delivered by the Disciplinary Authority to the charged officer prior to imposing the punishment and along with the notice to show cause as to why the punishment proposed be

not imposed. Attention is invited to the order dated 1st May, 1991 of the Disciplinary Authority of the respondent Bank and a perusal whereof does not show that any show cause notice against the proposed punishment was given and that the copy of the inquiry report was enclosed therewith.

3. Though there may be some merit in the aforesaid contention but the same would have no relevance to the present case and does not persuade me to change the view already taken in the judgment dated 11th July, 2012, for the reason, that the writ petitioner, against the order of his dismissal from service, had raised an industrial dispute and the following reference was made:-

Whether the action of the management of Canara Bank in dismissing the services of Sh. D.C. Sharma is justified? If not, to what relief the workman concerned is entitled to?

4. The Industrial Adjudicator, after completion of pleadings, proceeded with the trial and recorded the evidence of the writ petitioner as well as the respondent Bank and arrived at the conclusion that the misconduct stood proved.

5. The challenge in the writ petition is thus to the award of the Industrial Adjudicator and not to the departmental inquiry or punishment meted in pursuance thereto. After adjudication by the Industrial Adjudicator, the deficiencies in procedure, even if any, in the inquiry held or in the disciplinary proceedings, pale into in-significance and do not constitute a ground for setting aside of the award.

6. The only other argument raised by the counsel for the writ petitioner is that the punishment of dismissal from service is disproportionate. Reliance in this regard is placed on Shankar Dass Vs. Union of India (UOI) and Another, . It is contended that in that case inspite of conviction for an offence of criminal breach of trust in respect of sum of Rs. 500/- the order of dismissal from service was held to be not justified.

7. However the workman in that case was an employee of Delhi Milk Supply Scheme and though had been convicted, was released on probation. The Supreme Court set aside the order of his dismissal from service on sympathetic grounds. The writ petitioner herein was an employee of a Bank and employment in a Bank stands on an entirely different footing from employment with a Department as Delhi Milk Supply Scheme. While an employee of Delhi Milk Supply Scheme can be posted at a place where would have no opportunity to commit the offence again, it is not so in the case of a Bank. The Industrial Adjudicator has rightly observed that the Bank can ill-afford to keep on its rolls a dishonest employee. The Bank acts as a custodian of monies of the others and cannot afford to take the risk of retaining a dishonest employee on their roll. Moreover, the Industrial Adjudicator in the present case is found to have properly exercised the powers and no case for this Court, in exercise of powers of judicial review, to interfere with the punishment is made out. Thus after hearing the counsel for the review petitioner also, no merit is found in the writ petition.

Accordingly review application as well as the writ petition, are dismissed.

No costs.