
(2018) 12 CAL CK 0053

In the Calcutta High Court

Case No : General Application No. 3047 Of 2018, General Application No. 3272 Of 2018, APOT No. 74 Of 2018

Sri Dilip Biswas

APPELLANT

Vs

Central Bank Of India & Ors

RESPONDENT

Date of Decision : 12-12-2018

Acts Referred:

Citation : (2018) 12 CAL CK 0053

Hon'ble Judges : Dipankar Datta, J; Bibek Chaudhuri, J

Bench : Division Bench

Advocate : Malay Dhar, S.M. Obaidullah, Sudip Pal Choudhury, S. Mishra

Final Decision : Dismissed

Judgement

The Court : The appeal is time barred by 15 day's delay.

We have heard the learned advocates for the parties. Cause shown is sufficient. Delay in presentation of the appeal is condoned.

GA No.3047 of 2018 stands allowed.

Let the appeal be registered, if otherwise in form.

The appeal is directed against an order of a single Judge of this Court dismissing the appellant's writ petition on the ground that the same is premature. GA No.3272 of 2018 is an application for stay filed in the appeal.

Mr. Dhar, learned advocate for the appellant/applicant (hereafter 'the appellant') submits that the appellant has been called upon to showcause by the disciplinary authority as to why he should not be dismissed from service without notice. According to him, the chargesheet has been issued without jurisdiction, proceedings were conducted irregularly without extending adequate opportunity of hearing; vital documents placed before the Inquiry Officer were not considered; the illegalities the appellant had pointed out in his response to the report of the Inquiry Officer have also not been considered by the disciplinary

authority; and that having regard to the glaring lapses in the procedure adopted, the writ court ought to have interfered instead of dismissing the writ petition as premature.

Reliance has been placed by Mr. Dhar on the decision of the Supreme Court reported in (2006) 8 SCC 200 [Jayrajbhai Jayantibhai Patel vs. Anilbhai Nathubhai Patel & Ors.], in particular paragraph 18 thereof.

Having regard to the point that has emerged in course of consideration of the stay application, we do not consider it necessary to keep the appeal pending. We are of the view that the learned Judge was perfectly justified in declining interference at the stage of proposed penalty. It has not been demonstrated that the disciplinary proceedings have been initiated by an authority not competent to do so. There is also no claim of total violation of principles of natural justice. It is settled law that once the disciplinary authority issues a notice calling upon the delinquent employee why a particular punishment should not be imposed, it is for the delinquent employee to persuade the disciplinary authority not to impose any punishment at all or that the facts and circumstances call for a lesser punishment. It is, therefore, open to the appellant to raise all points that are available to him against the proposed punishment of dismissal from service without notice. In the event, the disciplinary authority finds no ground to accept the contention urged on behalf of the appellant and proceeds to impose penalty, it shall be open to the appellant to exhaust the dispute resolution forum provided by law. We are, thus, not inclined to accept the

contention raised at the bar that this is the appropriate stage when the alleged illegalities in the procedure adopted for conclusion of the disciplinary proceedings should be examined by us.

The cited decision does not arise out of disciplinary proceedings and is, therefore, distinguishable.

We uphold the order of the learned Judge dismissing the writ petition. The appeal as well as the application stands dismissed. There shall be no order as to costs.

However, since the appellant was pursuing his remedy in this Hon'ble Court, we extend the time for his reply to the showcause notice by 15 days from date. In the event the appellant does not submit his reply within 15 days, the disciplinary authority shall be free to pass an appropriate order in accordance with law.