

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1063 of 2014

In

Civil Writ Jurisdiction Case No. 4093 of 2008

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Chandra Bhushan Pandey, S/o Late Deo Nandan Pandey, presently residing in Mohalla-Vikash Colony, A.G. Colony Main Road, P.S. Shastri Nagar, Town and District-Patna, Senior Manager, Field Inspection Office, Allahabad Bank, Khajpura, Patna-800014 (since terminated and retired).

.... Appellant

Versus

1. The Allahabad Bank through the Chairman-cum-Managing Director, Head Office, 2, Netaji Subhash Road, Kolkatta-700001.
2. The General Manager (Personal Administration), the Allahabad Bank, Head Office, 2, Netaji Subhash Road, Kolkatta-700001.
3. The Deputy General Manager, the Allahabad Bank, Zonal Office, Budha Marg, Patna-800001.
4. The Assistant General Manager and Disciplinary Authority, the Allahabad Bank, Zonal Office, Nagpur.

.... Respondents

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Appearance :

For the Appellant : Mr. S.B.K. Mangalam, Advocate
For the Respondents : Mr. Ajay Kumar Sinha, Advocate
Mrs. Manju Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 21-04-2015 This Letters Patent Appeal is preferred against the order dated 18.6.2014 passed by the learned single Judge in CWJC No.4093 of 2008.

The appellant joined in Allahabad Bank as Accounts Clerk in the year 1970. Later, he was promoted as Senior Manager in 1999 and posted at Patna. He met with an accident on 25.11.2005. After recovery, he resumed his duties on

19.1.2006. The appellant was transferred to Nagpur Zone on 13.9.2006. The appellant challenged the order of his transfer by filing CWJC No.14145 of 2006 but unsuccessfully. He is said to have met with another accident on 21.9.2006. It is stated that firstly he was treated in a private hospital and thereafter at the Patna Medical College & Hospital and was advised bed rest by the doctor.

Noticing that the appellant did not join duty in spite of lapse of long time, a Medical Board was constituted at Nagapur and he was required to appear on 4.11.2006. However, he did not turn up and ultimately respondent-Assistant General Manager of the Bank, issued charge memo dated 21.1.2008.

The appellant filed CWJC No.4093 of 2008 challenging the charge memo dated 21.1.2008. During the pendency of the writ petition, an order dated 6.6.2008 was passed removing him from service. The appellant filed I.A. No.2582 of 2014 seeking amendment of the prayer to challenge the order of removal dated 6.6.2008. Through a detailed order dated 18.6.2014, the learned single Judge refused to set aside the charge sheet and rejected I.A. No.2582 of 2014. Costs of Rs.10,000/- (Ten thousand) were imposed. Hence, this appeal.

Heard Shri S.B.K. Mangalam, learned counsel for the

appellant and Shri Ajay Kumar Sinha, learned counsel for the respondent-Bank.

The filing of the writ petition was against the charge sheet dated 21.1.2008. Whatever be the grounds urged in it, the writ petition has become infructuous on account of the fact that the order of dismissal was passed. The petitioner made an attempt to challenge the order of dismissal by filing I.A. The learned single Judge observed that since the petitioner-appellant did not exhaust remedy of the departmental appeal, it was not permissible from him to challenge the order of dismissal, straightaway.

We do not find any ground to interfere with the order passed by learned single Judge. The appellant should have exhausted the departmental remedy before approaching this Court.

We, therefore, dismiss the appeal. However, we leave it open to the appellant to file an appeal before the competent authority. Since the order of dismissal was passed during the pendency of the writ petition, we direct that if the appeal is filed within six weeks from today, the authority shall entertain the same without raising any objection to the limitation; and pass orders on merits.

Though we find justification for the learned single Judge in imposing costs of Rs.10,000/- (Ten thousand), we delete the same on account of the fact that the appellant is not in service.

The interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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