

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6362 of 2007

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Anand Kumar son of Late Dr. K.N. Brhamchary resident of Barh bazaar
P.O. & P.S. Barh, District Patna.

.... Petitioner/s

Versus

1. The State Bank of India through the Chief General Manager, State Bank of India, Local Head Office, Patna.
2. The Deputy General Manager, State Bank of India, Zonal Office, Patna Zone, Patna.
3. The Assistant General Manager, II, State Bank of India, Zonal Office, Patna Zone, Patna.
4. The Assistant General Manager, State Bank of India, Bailey Road, Patna.

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

9 16-09-2015

No one appears for the petitioner.

2. The prayer of the petitioner in this writ

application reads as follows:-

“For quashing the order suspension as communicated through memorandum no. 07, dt. 26.4.2006 issued by the respondent no.4, the Assistant General manager, State Bank of India, Bailey Road Patna because the petitioner has been kept under suspension for last more than one year in a most arbitrary and malafide manner and without any reason.

For quashing the order contained in letter no. AGM/Gen/144, dt. 18.8.06 because the subsistence allowance is not being paid to the petitioner in accordance with the rules taking into account his present salary and allowances.”

3. From the pleadings, it would transpire that the petitioner was also subjected to a disciplinary proceeding and was dismissed from service by an order passed by the competent authority of the State Bank of India vide order dated 02.03.2000. That order was made



subject matter of writ petition being C.W.J.C No. 10573 of 2000 and the learned Single Judge of this Court by order dated 22.02.2006, had set aside the order of punishment of dismissal from service and had remitted the matter back to the competent authority of State Bank of India. The operative portion of the order dated 22.02.2006 passed in C.W.J.C No. 10573 of 2000, reads as follows:-

“Accordingly, the orders passed by the disciplinary authority and the appellate authority, as contained in annexures- 2 & 1, are quashed and the matter is remitted back to the disciplinary authority to reconsider the punishment imposed on the petitioner and to award any punishment other, than dismissal, removal, discharge and compulsory retirement. It shall also be open for the bank to post the petitioner away from Rajgir and Patna wherefrom he is alleged to have been associating himself with cinema business. So far the question of salary for the period between the order of dismissal and the orders of this Court is concerned, petitioner shall not be entitled for any salary but he should be given continuity of service.”

4. Let it be noted that when this order was made subject matter of appeal at the instance of the State Bank of India, the same was also affirmed by the Division Bench by its order dated 08.01.2007 in L.P.A. No. 314 of 2006 had held in the following terms:-

“Learned Single Judge of this Court having heard counsel for the parties and on appreciation of facts held that removal of the writ petitioner from services was unreasonable, arbitrary and exorbitant as no loss was caused

to the Bank nor the conduct of the employee amounted to cheating and, therefore, directed the authorities to take an appropriate decision regarding punishment, other than removal from services.

It does not appear to be a case that the conduct of the writ petitioner in any way cause pecuniary loss to the Bank nor the committed mischief or cheating so far the Bank from where he borrowed the money is concerned.

It is also not the case of the appellants that the money which he had borrowed from another branch was not repaid.

In these circumstances, the findings arrived at by the learned Single Judge of this Court cannot be said to be otherwise bad as other modes of punishments have also been prescribed in the Rules to which the writ petitioner can be subjected to, if the charges stood proved against him.

In view of the liberty given by the learned Single Judge of this Court to the appellants, we do not find any reason to interfere with the same.

This appeal, accordingly, is dismissed."

5. The matter thereafter was taken to the Apex Court and whatever materials have been brought on record, this will go to show that notices were issued and the contempt proceedings before this Court were stayed by the Apex Court in its order dated 14.05.2007 in Special Leave Petition No. 8264 of 2007. The State Bank of India has also come out to file an affidavit that the notices were already served on the writ petitioner before the S.L.P. No. 8264 of 2007 was listed for its final disposal on 17th September, 2007.

6. In view of the above, this Court will now not

be required to interfere with the order of suspension of 26.04.2006, which in fact was the logical fall out of the direction given by the learned Single Judge because he did not quash the departmental proceeding and had only interfered with quantum of punishment. This Court is also not aware as to what ultimate decision has been taken by the Apex court, therefore, when the learned counsel for the petitioner is also not present all that can be said is that the continuance of the petitioner in service of the State Bank of India shall be governed by the inter parte judgment either of this Court or the Apex Court in S.L.P. No. 8264 of 2007.

7. With the aforementioned observation, this application is disposed of.

(Mihir Kumar Jha, J)

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