

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4834 of 2011

=====

Krishna Kumar Mishra s/o Sri Bishwanath Mishra, R/o village Dhebani
P.O. Nimej, District Buxar.

.... Petitioner/s

Versus

Canara Bank & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Damodar Prasad Tiwary, Adv.

For the Respondent/s : Mr. K.B.Verma, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 27-01-2015

Heard counsel for the petitioner and the Respondents.

In this case petitioner has been charge-sheeted for the act of misconduct, vide letter dated 28th November 2007 (Annexure-3) wherein two charges were framed against him, one for not depositing Rs.5,000/- of Dashrath Pandey who had handed over to him for depositing in the Bank and another charge is that on 7th June 2007, he was handed over Rs.7,51,800/- for bundling, when was demanded back, he informed he would hand over the money after coming back from toilet but he slipped away from the Bank with the said amount and did not return thereafter allegation has been made that he misappropriated Rs.7,51,800/-.

A departmental proceeding was initiated, as per the Bank, petitioner was given an opportunity on different dates but by raising one excuse or another, he did not participate in the enquiry and did not co-operate in the departmental proceeding.

Ultimately, the Enquiry Officer conducted ex party enquiry and found the charges proved. The Disciplinary authority passed the order of dismissal.

Being aggrieved by and dissatisfied with the order of punishment, petitioner filed an appeal and a revision but which did not give any fruitful result to him.

Counsel for the petitioner submits that the petitioner does not know English whereas charge sheet served upon him is in English, so he could not understand narration made therein. Another point has been raised that as the petitioner during enquiry was ill, on that account, he requested for adjournment of proceeding from time to time but the Enquiry Officer in stead of granting time, concluded the ex parte enquiry. Another point has been raised that the petitioner had demanded assistance of Advocate but that was refused on the ground that the Bank was not represented by any Advocate or legally trained person and, as such, he could not be allowed to be represented through an Advocate so much so liberty was given to be represented through one of his co-employee but the petitioner refused to take assistance from any co-employee.

As the petitioner is a workman under Section 2(s) of the Industrial Disputes Act, raising an industrial dispute is

available to him is an alternative and efficacious remedy..

This Court cannot examine the disputed question of fact. In such view of the matter, this Court finds that petitioner should exhaust the alternative remedy available to him by approaching the Tribunal under the Industrial Dispute Act.

In this view of the matter, this petition is dismissed with the observations made above.

Jay/-

U			
---	--	--	--

(Shivaji Pandey, J)