

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3623 of 2015

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Ram Kishore Singh, Son of Late Harbansh Singh, Resident of Mohalla -
Prabhunath Nagar, P.O. Tari, P.S. Chapra, Muffasil, District - Chapra (Saran)

.... Petitioner

Versus

1. 1. Punjab National Bank through its Chairman - Cum - Managing Director,
7, Bhikaji Cama Place, New Delhi
2. The Executive Director, P.N.B. - 7, null Bhikaji Cama Place, New Delhi
3. The General Manager, H.R.D. Disciplinary Authority, H.R.D. P.N.B. 7,
Bhikaji Cama Place, New Delhi
4. The Asstt. General Manager, H.R.D. Disciplinary Authority, 7, Bhikaji
Cama Place, New Delhi
5. The Regional Manager, Punjab National Bank, Muzaffarpur Aghoria Bazar
Chowk Circle, Head Circle Office, P.N.B., Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manager Sah, Advocate

For the Respondent/s : Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 30-06-2016

Heard learned counsel for the petitioner and the learned
counsel appearing for the Punjab National Bank.

2. The petitioner seeks quashing of the order, dated
30.07.2008, passed by the disciplinary authority (respondent no.4),
whereby a major penalty of removal from service in terms of
Regulation 4 (i) of PNB Officer Employees' (D & A) Regulations,
1977, not being a disqualification for future employment. He has also
prayed for setting aside the order, dated 29.03.2014, passed by the
Executive Director-cum-Reviewing Authority (respondent no.2),
whereby he has again rejected the review petition preferred by the

petitioner in the light of order, dated 21.01.2014, passed in C.W.J.C. No. 3640 of 2013, as time barred. He also seeks setting aside of the order, dated 20.06.2014, passed by the Appellate Authority whereby appeal preferred against the order, dated 30.07.2008 has been rejected, as time barred.

3. In the year 2008, the petitioner was posted as Deputy Manager at Narayanpur Branch of Punjab National Bank, he was departmentally proceeded for charges of committing illegalities in sanctioning of loan of Tractors and K.C.C. Consequent to the departmental proceeding, the petitioner was dismissed from service on 30.07.2008 by the order of Assistant General Manager (HRD). The petitioner filed a review application, after three years and seven months, for review of the order of dismissal, which was dismissed as time barred. Being aggrieved, the petitioner filed C.W.J.C. No. 3640 of 2012 before this Court, which was disposed of on 21.01.2014. Before this Court, the petitioner submitted that as he had nearly lost his vision, thus, he was confined to his house for two years, and thus delay in filing review. This Court after considering his plea, vide order, dated 02.01.2014, granted him an opportunity to explain the reason behind the delay in filing of the review application before the appropriate authority. Relevant extract of order, dated 21.01.2014 is quoted herein below for easy reference:



“In the facts and circumstances of the case, I consider it appropriate to dispose of this writ application with only liberty to the petitioner to approach the reviewing authority, explaining in detail the reason behind the delay of two years in preferring the review petition along with documents in support of such plea. If he files such application seeking condonation of delay in preferring the review application within one month from today, the reviewing authority shall consider whether on such submission/ facts stated in the representation, the delay in preferring the review application could be condoned or not. If the delay is found to be condonable on such facts, the reviewing authority shall pass necessary orders on merit on the review application filed by the petitioner within a period of six months from the date of presentation of such representation in terms of the present order.”

4. In the light of order, dated 21.01.2014, passed in C.W.J.C. No. 3640 of 2012, the petitioner filed a review on 10.02.2014, which is contained in Annexure-17 to the writ application. The review application, however, was again dismissed, as the reasons for delay in filing the same did not find favour with the Chief Manager. The relevant extract of the order dated 29.03.2014 rejecting the review petition is quoted herein below:



“I have gone through the application of the petitioner along with the documents enclosed by him and have taken a re-look into the delay in submission of review petition. I find that the reasons given by the petitioner for such an inordinate delay of more than 2 years in submitting his review petition is not convincing. There is nothing on record to indicate that he was completely debilitated immediately after the DA order, resulting in his inability to send any communication/application to bank authorities. I am, therefore, of the opinion that the delay in submission of review petition is not justified and the petition is time barred.”

5. The petitioner thereafter preferred statutory appeal, which too was dismissed vide order, dated 20.06.2014. While dismissing the appeal, the appellate authority merely observed that there was no reason/justification to take a fresh view in the matter, as the review application was time barred. The relevant extract of the order of the Appellate Authority is quoted herein below:

“Your request to condone the delay in filing of appeal against major penalty of ‘Removal from service which shall not be a disqualification for future employment’ along with records of the case was placed before the

General Manager, the Appellate Authority, who has observed that as per court order, the matter has already been considered by the Reviewing Authority, who declined to condone the delay. Therefore, there is no reason/justification to take a fresh view in the matter.”

6. Mr. Abhay Kumar Singh, learned Senior Counsel appearing for the petitioner submits that the petitioner has been inflicted major punishment of removal from service and as such his case ought to have been considered on merit by the appellate authority. The review petition or the appeal, though preferred beyond the time limit, ought not to have been dismissed on mere technicality, more so, when the matter was remanded by this Court for consideration of explanation of the petitioner for the delay in filing the review and the appeal.

7. On the other hand, Mr. Prashant Vedsen, learned counsel for the Bank, submits that the petitioner is to blame himself for delayed filing of review and appeal. He submits that the review application was filed after two years and seven months and the petitioner did not have any reasonable explanation for condonation of the delay. He submits that the petitioner under-went eye surgery on 14.09.2011 and prior to which he had already filed review application on 07.03.2011, which he could have filed, earlier as well.

8. I have heard the learned counsel for the parties.

9. There is no dispute that the petitioner approached the authorities after two years and seven months of his dismissal. It is not the case where the petitioner has no explanation for delay.

10. The petitioner has given loss of eye sight for the delay in filing of review. He had taken this plea before this Court also in C.W.J.C. No. 3640 of 2011. The petitioner has also annexed the medical certificate issued by the doctor attending him, which is both of the year 2008 and 2011. In view of above, it cannot be said that petitioner did not have an explanation for delay, the authorities ought to have condoned the delay in the facts of the case.

11. Furthermore, no reason has been assigned as to why the plea of poor eye sight has been discarded. In view of forgoing reasons, the impugned orders of the reviewing authority and the appellate authority rejecting the review and appeal are set aside. The appellate authority would consider the appeal filed by the petitioner on its own merit in accordance with law.

12. The writ application is allowed to the extent mentioned above.

(Samarendra Pratap Singh, J.)

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