

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 967 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 8804 of 2008

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1. Central Bank of India through its Chairman-cum-Managing Director, Chandramukhi, Nariman Point, Mumbai.
 2. The Assistant General Manager-cum-Appellate Authority, Central Bank of India, Zonal Office, Maurya Lok Complex, Patna.
 3. Zonal Manager, Central Bank of India, Zonal Office, Maurya Lok Complex, Patna.
 4. The Regional Manager-cum-Disciplinary Authority, Central Bank of India, Regional Office, Maurya Lok Complex, Patna.
 5. Branch Manager, Central Bank of India, Jhauganj Branch, Patna City, Patna.
- (Respondent no. 1 to 5 in the writ petition)

.... Appellant/s

Versus

Raj Kishore Prasad Sinha, Son of Late Kapildeo Narayan Lal, Resident of Mohalla Sonar Toli, P.S.- Khajekalan, Patna City, District- Patna at present working as Peon, at Central Bank of India, Jhauganj Branch, Patna City, Patna.

(Petitioner of the writ petition)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr. Syed Ashfaque Ahmad, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 16-11-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-Court appeal is to the order dated 08.05.2014 by which C.W.J.C. No. 8804 of 2008 filed by the respondent has been allowed by the learned Single Bench.

3. The writ applicant (respondent) was dismissed on



14.02.1995 for charges proved against him in Departmental Enquiry. The appeal against the same was also dismissed by the Appellate Authority on 31.07.1997 and a mercy appeal after that was also dismissed on 14.02.1999. Though the order was challenged in C.W.J.C. No. 1702 of 1999 but the same was withdrawn on 18.12.2003 for moving before the Industrial Disputes Tribunal, Patna. The Industrial Disputes Tribunal, Patna by order dated 05.03.2004 in Case No. 16 (C) of 2003 declined to interfere in the matter. The appellants, being aggrieved, preferred C.W.J.C. No. 16354 of 2004 in which by order dated 01.03.2006, the order of dismissal, the appellate order as well as that of the Industrial Disputes Tribunal was quashed, though maintaining the finding of guilt, and the matter was remitted to the Disciplinary Authority to impose any punishment other than dismissal, removal, discharge and compulsory retirement. Pursuant to the same the appellant-Bank passed fresh order on 21.09.2007 in compliance of the order dated 01.03.2006 passed in C.W.J.C. No. 16354 of 2004. Both M.J.C. No. 1357 of 2006 filed by the writ applicant alleging non-compliance of the order and Civil Review No. 23 of 2007 filed by the appellants for review of the said order were disposed off on 24.09.2007 in view of the order passed by the appellant-Bank dated 21.09.2007, leaving it for the writ applicant either to accept or

challenge the said order. Thereafter the respondent filed C.W.J.C. No. 8804 of 2008 assailing the order dated 21.09.2007, which was allowed by the learned Single Bench on 08.05.2014, giving rise to the present Letters Patent Appeal.

4. Learned counsel for the appellants submitted that the order dated 21.09.2007, which was passed pursuant to the order dated 01.03.2006 in C.W. J.C. No. 16354 of 2004, was considered by the concerned Bench of this Court in M.J.C. No. 1357 of 2006 but was not held to be contrary to the order dated 01.03.2006 and, thus, it was submitted that the punishment awarded, though not mentioned in Clause 19.6 of the Bipartite Settlement, could have been imposed since the same was not exhaustive and the Bank as well as the Disciplinary Authority had the jurisdiction to impose such punishment. However, it is submitted that pursuant to the order impugned, the Bank has passed a fresh order on 18.06.2014, in terms of the liberty given by the learned Single Bench by which the respondent has been brought down to two lower stages in the clerical scale of pay. It was submitted that in that view of the matter, the order of the learned Single Bench holding the respondent entitled for consequential benefits of difference of pay and allowance needs to be interfered with.

5. Learned counsel for the respondent submitted that



the power exercised by the appellant- Bank has to be in accordance with the relevant provisions either statutory or under any agreement. It was submitted that in the present case the same is governed by the Bipartite Settlement dated 31.10.1979, which does not provides for punishment as has been imposed by order dated 21.09.2007 and, thus, the order of the learned Single Bench cannot be held to be bad. It was further submitted that consequential benefits were a natural corollary to setting aside of the order dated 21.09.2007 and requires no interference.

6. Having considered the rival contentions, though we do not find any error in the order of the learned Single Bench in setting aside the order of punishment dated 21.09.2007 imposed upon the respondent, but, in view of the admitted position that pursuant to such order the respondent had joined the Bank on 09.10.2007, and has continued to work on the lower post, he shall not be entitled to consequential benefits of difference of pay and allowances. In fact, the learned Single Bench has also given the appellant-Bank liberty to impose upon the respondent either of the punishment mentioned in Clause 19.6 (c) and (e), which was to date back to the impugned order, that is, 21.09.2007. Thus, the Bank having acted in terms of the liberty granted and issuing fresh order on 18.06.2014, i.e., within two months of the date of the order of the

learned Single Bench, and imposing punishment of bringing the respondent down to two lower stages in the clerical scale of pay, is in conformity with Clause 19.6 (c) of the Bipartite Settlement dated 31.10.1979.

7. In view of the discussions made hereinabove, the Letters Patent Appeal stands disposed off by modifying the order dated 08.05.2014 to the extent that the writ applicant would not be entitled to consequential benefits as ordered by the learned Single Bench but only consequential benefits, if any, arising out of the modified order of punishment dated 18.06.2014.

(Ahsanuddin Amanullah, J)

Hemant Gupta, ACJ *I agree*

(Hemant Gupta, ACJ)

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