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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 241/2016**

VIGYAN RANJAN JHA Petitioner
Through: Mr. N.K. Jha, Advocate.

versus

PUNJAB & SIND BANK & ANR Respondents
Through: Mr. Kittu Bajaj, Advocate.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **12.01.2017**

1. On account of the fact that the petitioner is a workman under the Industrial Disputes Act, 1947 hence the petitioner has an alternative efficacious remedy for approaching the authorities under the Industrial Disputes Act, the following order was passed on 22.12.2016:-

“1. Learned counsel for respondent-bank has drawn the attention of this Court to the fact that petitioner is a workman and hence the petitioner has an alternative efficacious remedy of approaching the authorities under the Industrial Disputes Act to challenge the orders passed by the departmental authorities imposing punishment upon the petitioner. Respondent-bank in fact places reliance upon Annexure ‘L’ filed by the petitioner himself which shows that petitioner is relying upon the Bipartite Settlement dated 10.4.2002, and which only

apply to workmen, with the fact that petitioner is a clerk and hence a workman under the Industrial Disputes Act.

2. In law, proceedings under the Industrial Disputes Act challenging orders of the departmental authorities are different than proceedings in a writ petition before this Court, inasmuch as, in proceedings under the Industrial Disputes Act even if an employer fails to sustain the enquiry proceedings, yet the employer in the proceedings under the Industrial Disputes Act can lead evidence once again to prove the Article of Charges against the workman. This is so held by the Supreme Court in the judgments in the cases of ***Worker of Motipur Sugar Factory (Pvt.) Ltd. Vs. Motipur Sugar Factory* AIR 1965 SC 1803**, ***Engineering Laghu Udyog Employees' Union Vs. Judge, Labour Court and Industries Tribunal* (2003) 12 SCC 1** and ***Another, Karnataka State Road Transport Corpn. Vs. Lakshmiddevamma (Smt.) & Anr.* (2001) 5 SCC 433** and other judgments.

3. Learned counsel for the petitioner, at this stage, wants to take instructions, inasmuch as, even if the writ petition is admitted, it will have to be admitted and heard subject to the objection of the respondent-bank with respect to availability of alternative efficacious remedy, and therefore, it would not be available to the petitioner to argue at the time of final hearing when the writ petition comes up for hearing that since petition has remained pending in this Court for long, this Court should hence still decide the petition on account of lapse of time.

4. List on 12th January, 2017.

2. Today, counsel for the petitioner states that he has instructions to press the petition.

3. In view of the fact that petitioner is a workman and will be covered under the Industrial Disputes Act and since disputes between a workman and his employer have to be decided as per the procedure and the provisions of the Industrial Disputes Act, this writ petition is disposed of with liberty to the petitioner to approach the authorities under the Industrial Disputes Act.

4. The reason why this Court would not exercise jurisdiction instead of the authorities under the Industrial Disputes Act is on account of the facts as detailed in the order dated 22.12.2016, inasmuch as, before the Industrial Disputes Act the respondent no. 1/employer will have a right to lead additional evidence even if on the basis of the evidence led before the departmental authority the finding against the petitioner cannot be sustained, assuming the petitioner/workman succeeds in successfully questioning the orders of the departmental authorities, and which cannot be done in this writ petition.

5. In view of the above this writ petition is accordingly dismissed reserving liberty to the petitioner as aforesaid.

VALMIKI J. MEHTA, J

JANUARY 12, 2017

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