

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5545 of 2011

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1. Rabindra Mohan Prasad Lt. D.N.Pd. Indrapuri, P.S. Patliputra, Colony Town,
Distt. Patna

.... Petitioner/s

Versus

1. The Central Bank Of India Through Its Chairman Cum Managing Director,
Chandramukhi ,Narimanpoint, Mumbai
2. The Chairman Cum Managing Director, Central Bank Of India ,Chandramaukhi,
Narimanpoint, Mumbai
3. The Deputy General Manager, Reviewing Authority, Central Bank Of India,
Zonal Office, Patna
4. The Assistant General Manager Cum Appellate Authority, Central Bank Of
India, Zonal Office, Maurya Lok Patna
5. The Disciplinary Authority Cum The Regional Manager, Central Bank Of India,
Maurya Lok ,Patna
6. The Branch Manager, Central Bank Of India, Patliputra Colony, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar
For the Respondent/s : Mr. Ajay Kumar Sinha,
Mr. Ajit Kumar Sinha,
Mr. M. Jaisawal

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-02-2018

Heard learned counsel for the petitioner and learned
counsel for the Bank.

Earlier this case was handed over to Mr. Satish Chandra
Jha, on his demise the petitioner has given power to Mr.
Madhusudan Kumar present Advocate.

In the present case, the petitioner is challenging the order
dated 4.7.1994 passed by the Regional Manager, Central Bank of
India (Disciplinary Authority) by which he has been inflicted the
punishment of dismissal and thereafter the petitioner filed an



appeal and the same has been disposed of vide order dated 24.11.1994 passed by the Appellate Authority i.e. Assistant General Manager, Central Bank of India. The said order was sent to the petitioner by registered post but because of absence of the petitioner his mother did not receive but advised her son to collect the order from Bank but avoided to receive the same, purportedly showing ignorance, was addressing, applications which have brought by way of different Annexures through supplementary affidavit (Annexure-19 series) claiming non-remittance of appellate order. When he did not receive proper reply then the petitioner filed C.W.J.C. No.9634 of 2006.

Central Bank of India had entered appearance and filed its counter affidavit informing this Court that the copy of the said order of the Appellate Authority was served upon him on 1.12.2004 by registered post.

The Court has recorded as follows: “ They categorically stated in para 5 that this decision has been communicated to the petitioner through registered post which would be evident from letter dated 1.12.2004 written by the Branch Manager, Patliputra Colony Branch.” But the Court gave liberty to the petitioner to challenge the same before the appropriate forum and whereafter he filed review application as provided under Cause 18 of the Central Bank of India Officer Employees (Conduct) Regulations,



1976 (hereinafter referred to as the Regulations, 1976) and the same has been dismissed vide order dated 27th October, 2009 having recorded that review application is not maintainable as time barred as per Regulations, 1976.

Learned counsel for the petitioner submits that Reviewing Authority has not applied its mind and by a cryptic order rejected the review application but the counter plea has been taken that the impugned order reflects Reviewing Authority had applied his judicial mind before arriving to finding of non maintainability.

Learned counsel for the Bank has submitted that this writ petition is completely hit by delay and laches as first writ petition was disposed of vide order dated 22.8.2008 and the order of Appellate Authority is dated 24.11.1994 and as such this writ petition is fit to be dismissed at the threshold. Further plea has been taken by the Bank that forum review cannot be exercised at the instance of employee of Bank but is exercised, by Reviewing Authority, suo motu.

Having considered the rival contentions of the parties Clause 18 of Regulation, 1976 has conferred the power upon the Reviewing Authority that he may call for the record of the case within six months from the date of final order and after reviewing the case pass such order thereon as it may deem fit and proper.



As has been claimed by the Bank, within six months, any person aggrieved may approach the authority i.e. upper limit has been provided under Clause 18 of the Regulations, 1976 to approach the Reviewing Authority. Another point has been taken, the power of review is not conferred to entertain the application at the instance the delinquent employee but this power can be exercised only for the purposes of enhancement of penalty suo motu. In the opinion of this Court, the plea is not sustainable, as formation of provision reflects that Reviewing Authority in exercise of power may pass any order, either he may interfere with the order of the disciplinary authority or appellate authority or he may enhance punishment after giving due notice or in a proper case may reduce the punishment. The submission of counsel for the Bank is not correct. Power cannot be exercised for reduction or annulment of the order of the disciplinary authority or appellate authority. Now it is better appreciation, it is proper to quote Clause 18 of the Regulations, 1976:

“Notwithstanding anything contained in these regulations, the Reviewing Authority may call for the record of the case within six months of the date of the final order and after reviewing the case pass such orders thereon as it may deem fit.

Provided that:

- (i) if any enhanced penalty, which the Reviewing



Authority proposes to impose, is a major penalty specified in clauses (e), (f), (g) or (h) of regulation 4 and an enquiry as provided under regulation 6 has not already been held in the case, the Reviewing Authority shall direct that such an enquiry be held in accordance with the provisions of regulation 6 and thereafter consider the record of the enquiry and pass such orders as it may deem proper.

(ii) if the Reviewing Authority decides to enhance the punishment but an enquiry has already been held in accordance with the provisions of regulation 6, the Reviewing Authority shall give show cause notice to the officer employee as to why the enhanced penalty should not be imposed upon him and shall pass an order after taking into account the representation, if any, submitted by the officer employee.”

On reading of Clause 18 of the Regulations, 1976 it is apparently clear the Reviewing Authority in appropriate case would decide the issue within six months as prescribed. This provision makes it clear that Reviewing Authority would dispose of the matter but six months cannot be prescribed as limitation for filing review application but it can be said that normally the review application should be filed within a reasonable period, not in his wisdom . At the same time, power cannot be only exercised for enhancement of the penalty but for other



purposes also as the formulation of provision makes it clear that power could be exercised even either to reduce or annul in appropriate case. In the present case the authority has only rejected the review application without any discussion recorded that review petition is not maintainable.

This Court is not interfering with the order of the Disciplinary Authority or Appellate Authority but the order of Reviewing Authority dated 27th October, 2009 (Annexure-3) is set aside and matter is remanded back to the Reviewing Authority who will examine the case of the petitioner, call for the records and pass the order within a period of six months from the date of receipt/production of a copy of this order. This Court is not giving any opinion on the merit of the case.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.2.2018
Transmission Date	NA

