

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10107 of 2010

Shyam Martand Dixit .. Petitioner
Versus
Central Bank of India and Ors .. Respondents

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Mr.R.G. Londhe with Mr.S.S. Ashtekar i/b Sandesh Deshpande for
the Petitioner.

Mr.Lancy D'Souza with Deepika Agarwal I/b V.M. Parkar for the
Respondents.

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CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.

DATE : 4th JUNE 2019

P.C:-

1. The petitioner has approached this Court being aggrieved by the rejection of his appeal by the Appellate Authority by order dated 07.09.2010. The appeal has been preferred by the petitioner against the order of imposing penalty passed on 19.12.2005 and the appeal came to be preferred on 23.08.2010 in terms of Regulation 17 of the Central Bank of India (Discipline and Appeal) Regulations, 1976. The Appeal is to be preferred within 45 days from the receipt of the final order against the administrative order.

2. The appeal which was preferred contains the reason for not approaching the Appellate Authority within 45 days and it is stated that the appellant being a retired officer/employee of the Bank was not aware of the prevailing provisions of the Discipline Rules and Regulation applicable to the retired officer/employee. This is how the delay is sought to be explained to the Appellate Authority.

The Appellate Authority while passing the order on 07.09.2010 did not find substance in the said reason cited by the appellant and observed that the appellant himself had worked in different capacities in the Bank and therefore the reason that he was not aware of the provisions as to whom he should approach as an Appellate Authority was without any merit and substance and therefore the delay of five years was found to be without any proper justification. The appeal came to be turned down by the impugned order dated 07.09.2010.

We do not find any perversity or illegality in the said finding of the Appellate Authority as the regulation prescribe a limitation of 45 days for filing the appeal and since the Authority not being judicial authority, is not empowered to condone the delay.

3. At the request of the learned counsel for the petitioner we have also considered the merits of the matter and the sole ground raised by him that there was no power to impose the penalty of reduction of pension or withdrawal of the half of the pension permanently in terms of regulation 48(1) of the Central Bank of India (Employees) Pension Regulations, 1995 is also unjustified and without any merit and substance.

4. We have carefully perused the said Regulations and Regulation No.48 deals with the recovery of pecuniary loss caused to the bank. Clause 48 is attracted and the Competent Authority is empowered to withhold or withdraw the pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the bank, if in any departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service. The said Regulation also stipulates that this power can be exercised subject to a proviso that where a part of pension is withheld or withdrawn, the amount of pension withdrawn by a pensioner shall not be less than the minimum pension payable

under these Regulations. Thus, the contention of the learned counsel for the petitioner that it was not permissible to impose the penalty of withdrawal of half pension permanently as it was not a permissible penalty in terms of Regulation 48 is a misconceived argument. Since the amount of pension drawn by the petitioner is not reduced more than the minimum pension payable under the Regulation, there is no restriction on the respondent authorities in imposing penalty of withdrawal of half pension permanently in terms of the said regulation. Even on merits we do not find any substance in the argument of the learned counsel for the petitioner by upholding the impugned order. Resultantly we dismiss the present Writ Petition. No order as to costs

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)