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07.01.2021.
d.p.

W.P.A 9392 of 2020
(Via Video Conference)

Mangal Prasad Adhvaryu
-versus
Bangiya Gramin Vikash Bank & Ors.

Mr. Arunava Ghosh,
Md. Yasin Ali,
Mr. Arindam Ghosh.
...For the Petitioner.

Ms. Aparajita Rao
...For the Respondents.

The petitioner is a retired officer of the Bank. He retired from service on attaining the normal age of superannuation on 30th June, 2020. When the petitioner was in service, a disciplinary proceeding and a criminal proceeding was initiated against him in response to a complaint lodged on 8th July, 2003.

The petitioner was placed under suspension by the order of the disciplinary authority and the Chairman of the Bank on 16th July, 2003. A charge sheet was issued to the petitioner on 3rd January, 2005.

The petitioner complains that though the charge-sheet was issued but the supporting documents in connection thereto were not supplied to him. The petitioner applied for supplying the relevant documents which he required in his defense. The order of suspension was withdrawn by the Chairman of the Bank on 11th March, 2006.

The petitioner had to approach this Court on three earlier occasions by filing writ petitions being

W.P. No. 25746 (W) of 2010, W.P. No. 18587(W) of 2011 and W.P. No. 12133(W) of 2013.

By an order dated 12th June, 2013 passed in W.P. No. 12133 (W) of 2013, the Court directed the respondents to supply the documents which were not supplied to him earlier within a period of one month and it is only thereafter that the enquiry shall proceed.

Admittedly, the documents could not be supplied to the petitioner within the time specified by the court. The enquiry officer on 23rd December, 2013 recorded in the minutes of the enquiry proceeding that unless the enquiry officer arranged to supply the documents the charge-sheeted officer will be compelled to seek help of the High Court again and as such, the proceeding had to be adjourned.

The petitioner filed an application for release of his superannuation dues by a letter dated 4th May, 2020 but his prayer stood rejected by the Bank on the ground of pendency of the writ application and the ongoing disciplinary proceeding.

The earlier Enquiry Officer as well as the Presenting Officer got themselves relieved from their assignment. The newly appointed Enquiry Officer issued a notice on 3rd June, 2020 by fixing 17th June, 2020 as the next date of hearing of the disciplinary proceeding. The petitioner could not attend on the said date as he was under home quarantine. The petitioner retired from service on 30th June, 2020 and on 4th July, 2020 the Regional Manager of the Bank visited the residence of the petitioner and handed over certain documents under the cover of a note sheet dated 30th June, 2020.

The petitioner submits that till date the list of witnesses in support of the charge sheet has not been supplied to him. The petitioner prays for releasing his retiral dues as well as for dropping the departmental proceeding initiated against him.

Be it recorded that the petitioner was acquitted in the criminal case initiated against him, by a judgment dated 29th September, 2016.

The learned advocate appearing for the Bank opposes the prayer of the petitioner. It has been submitted that since the initiation of the disciplinary proceeding in the year 2005, the petitioner has not cooperated with the disciplinary authority. He went on filing one after another petitions before the Court. In view of the pendency of the writ petition, the Bank was not in a position to conclude the departmental proceeding.

It has however been admitted that there has been delay on the part of the Bank to supply the necessary documents to the petitioner. It has been submitted that as the documents have been presently supplied to the petitioner the court may fix a time frame within which the disciplinary proceeding against the petitioner may be concluded by the Bank.

I have heard the learned advocates appearing for the parties. It appears from records that the disciplinary proceeding was initiated against the petitioner in the year 2005 but the same could not be concluded for any reason whatsoever till the petitioner attained his normal age of superannuation on 30th June, 2020. It also appears that during the pendency of the disciplinary proceeding, promotion was given to the petitioner. Though he was placed under suspension initially but the same was withdrawn later on.

The very purpose of initiating the disciplinary proceeding gets defeated, if the same is kept pending for more than fifteen years. Had the bank been seriously interested to proceed against the petitioner they would not have sat tight over the issue for more than a decade and a half. Only after the petitioner retired from service, did the bank wake up from their deep slumber and sought to reopen and revive the dormant proceeding.

In service law, disciplinary proceeding is initiated against an erring officer to punish him for his misdeeds, but if the same is kept pending for fifteen long years, then the proceeding gets vitiated. It is evident that the respondent authority was not sincerely interested to proceed against the petitioner. The Bank failed to supply the required documents to the petitioner, despite orders of court. The petitioner has submitted that the list of witnesses has not been supplied to him till date. Due to non-supply of the required documents the task of proving the charges becomes difficult.

The inordinate unexplained delay on the part of the Bank clearly shows that they were never interested to proceed with the disciplinary proceeding. The pace in which the Bank proceeded belies their decision to proceed against the petitioner. The proceeding was merely initiated but never carried forward.

As the petitioner has already retired from service, it will neither be proper nor justified to permit the Bank to reopen the old case of 2005 in the year 2021. After so many years it will be practically impossible for the petitioner to identify the witnesses whom he could summon to appear before the enquiring authority in his support. It may not also be possible to properly recollect as to what happened way back in 2005. The officers of the bank whom the petitioner intends to cross-examine may also not be available. Permitting the bank to proceed with the said proceeding any further would, in my opinion, be prejudicial to the interest of the petitioner. The same will also amount to violation of the principles of natural justice, equity and fair play.

Accordingly, the prayer of the Bank for fixing a time frame to conclude the disciplinary proceeding is disallowed by the court.

In view of the above, the instant writ petition is disposed of by directing the Chairman of the Bank to take necessary steps for disbursal of the superannuation dues of the petitioner, strictly in accordance with law, within a period of twelve weeks from the date of communication of a copy of this order.

The disciplinary proceeding which was initiated against the petitioner in the year 2005 shall be deemed to have been dropped by the Bank.

The learned advocate appearing for the Bank prays for stay of operation of the order. As the Bank has been given enough time for releasing the superannuation dues of the petitioner, there is no immediate need for staying the operation of the order. Accordingly, the prayer for stay is refused.

W.P.A. 9392 of 2020 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)