

27.01.2021.
Item no. 53.
Court No.13
ap

**W.P.A. No. 11826 of 2020
(Through Video Conference)**

**Pradip Kumar Basu @ Pradip Basu
Versus
Union of India & Ors.**

Mr. Mrityunjoy Goswami,
Mr. Parikshit Goswami.

...For the petitioner.

Mr. Subrata Kumar Sinha.

...For the respondent nos.2 to 6.

The petitioner is admittedly above 60 years of age and was functioning as Senior Special Assistant in the Charu Market Branch of State Bank of India. He challenges disciplinary proceeding, inter alia, for defalcation of a sum of Rs.9,87,360/-. The petitioner was dismissed from service after a regular departmental enquiry in terms of the Bipartite Settlement.

The petitioner would argue before this Court that there is violation of principles of natural justice in conduct of disciplinary proceeding. The Writ Court can, therefore, be approached under Article 226 of the Constitution of India notwithstanding the availability of normal and alternative remedy before the Industrial Tribunal under the provisions of the Industrial Disputes Act.

This Court has carefully considered the proceeding of the enquiry as annexed to the writ petition.

It appears that since after suspension criminal proceedings were also lodged against the petitioner and are since pending. The petitioner, immediately upon suspension, left his last recorded address and went back to his village along with his family.

The Bank has clearly explained in their documents that there is no reply to the charge-sheet and there was no participation in the enquiry by the petitioner. All notices sent to the petitioner's last known address came with the endorsement 'undelivered'. A Newspaper publication was also effected by the disciplinary authority of the said proceeding before issuance of second show cause notice. The officials of the Regional Office also made personal visits to the last known address of the petitioner but found the door to be locked.

Therefore, the petitioner's contention is that he did not receive notice of the enquiry proceeding cannot be accepted by this Court.

The next point urged before this Court is that the petitioner did not receive a second show-cause notice from the disciplinary authority.

The said contention is rejected for the same reason that the petitioner was not available to receive any notice from the Bank.

The petitioner admittedly had not even registered his new address with the Bank. The last point argued is that the petitioner did not receive a personal hearing before the Appellate Authority pursuant to his appeal.

The Bipartite Settlement between the State Bank of India and its employees does not contemplate any personal hearing to an employee preferring an appeal from the final order passed by the disciplinary authority.

For the reasons stated hereinabove, this Court sees no violation of the principles of natural justice in conduct of the departmental proceeding against him.

Since the petitioner has an effective alternative remedy available before the Industrial Tribunal under the provisions of the Industrial Disputes Act, liberty is reserved to approach such Tribunal to challenge the proceeding on merits.

The instant writ application is hereby dismissed with liberty reserved to the petitioner as aforesaid.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(Rajasekhar Mantha, J.)

