

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7219 of 2016

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Abinash Chanchal Son of Late Ram Prabodh Das Resident of Mohalla -
Magadh Colony, Bari Pahari, Police Station Sohsarai, District - Biharsharif
Nalanda

... .. Petitioner/s

Versus

1. The State Bank Of India and Ors
2. The Deputy General Manager B and O Cum - Appellate Authority, State Bank of India, Zonal office,
3. The Regional Manager - Cum - Disciplinary Authority, Regional Business office State Bank of India,
4. The Chief Manager Domestic Enquiry Cum - Enquiry Office, Domestic Enquiry Department, 1st Floor
5. The Chief Manager, State Bank of India, Madhepura Branch, Madhepura
6. The Branch Manager, State Bank of India, Sardiha Branch, P.S. Simri Bakhtiarpur, District - Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate Mr. Vipin Kr. Singh, Advocate Mr. Sanchit Singh, Advocate
For the Respondent/s	:	Mr. Anjani Kumar Mishra, Advocate Mr. Rakesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 24-03-2022

Heard learned counsel for the parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“That this is an application for issuance of a writ in the nature of certiorari for quashing of the order dated 02.11.2015 issued under the signature of the Disciplinary Authority-Cum-Regional Manager, Regional Business Office,



State Bank of India, Saharsa whereby and where under a penalty of Removal from service with superannuation benefits in terms of paragraph 6 (b) of the Memorandum of Settlement dated 10th April 2002 has been inflicted upon the petitioner for the reasons indicated in the charge memo dated 08.01.2015 and on the basis of the enquiry report dated 18.09.2015 according to which the petitioner was found to be guilty of gross misconduct.

Appeal against the order dated 02.11.2015 was dismissed. Since the Appellate Authority seems to have found no irregularity in the order dated 02.11.2015 and therefore, removal order has not been interfered with by the Appellate Authority. Therefore, the Appellate order dated 16.02.2016 affirming the punishment of removal is also made impugned to the writ application.”

3. Petitioner has a statutory remedy before the appropriate forum either before the Industrial Tribunal or Central Government Industrial Tribunal (C.G.I.T.) having regard to the status of the petitioner read with the official respondents’ status. Hence, the present petition is premature in not exhausting the alternative remedy of appeal/application/industrial dispute.

4. Apex Court in the case of *State of Jammu and Kashmir V/s. R.K. Zalpuri and others* reported in AIR 2016 SC 3006, Paragraph-20 has held as under:



“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;

(b) The petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) Person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) Ex facie barred by any laws of limitation;

(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”

5. This Court has also taken a decision in the case of ***Dinesh Pd. Mandal vs. State of Bihar*** reported in **1984 PLJR 1002** that statutory appeal is required to be exhausted.

6. In the light of aforesaid decisions, the petitioner has to exhaust the statutory remedy before the appropriate forum.

7. Accordingly, the present petition stands disposed, reserving liberty to the petitioner to approach appropriate forum in accordance with law.



8. The concerned forum is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay in raising industrial dispute/application/petition.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	25.03.2022
Transmission Date	

