

26.04.2022
Sl. No.5
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3487 of 2022

Malay Basu
Vs.
Punjab National Bank & Ors.

Mr. Suchindram Bhattacharjee,
Ms. Sayantanee Bhattacharjee
.....for the petitioner.
Mr. S. M. Obaidullah
.....for PNB.

The petitioner while working in United Bank of India (in short UBI) now known as Punjab National Bank (in short PNB) faced a disciplinary proceedings which culminated into a final order dated 29th September, 2011 passed by the Disciplinary Authority. The petitioner was also subjected to a criminal proceedings on the allegation of fraud having been perpetrated by him as an employee of the erstwhile UBI. The petitioner was acquitted in the criminal proceedings by a judgment and order dated 24th July, 2018 passed by the 3rd Additional District and Sessions Judge, Barasat. The petitioner says though he had preferred a statutory appeal in terms of the extant rule of UBI, but the appeal has not been heard or decided. The petitioner, therefor, has approached this Court for a direction upon the respondent authorities to complete the entire pending proceedings within a time-frame and in accordance

with law as also to set aside the order of the Disciplinary Authority dated 29th September, 2011 and to release all the dues and benefits of the petitioner.

On behalf of the bank, it is submitted that the petitioner is an award staff, and as such is governed by the bipartite settlement prevailing in UBI and now known as PNB. The petitioner is not entitled to challenge the order of the Disciplinary Authority before the Appellate Authority but has to approach the Industrial Tribunal under the provisions of Industrial Disputes Act, 1947.

Be that as it may, the appeal preferred by the petitioner, even if it is before a wrong forum, a pronouncement is required by either rejecting the same on the ground of lack of jurisdiction or decided on merits as per the applicable provision of law. This decision from the Appellate Authority has admittedly not been given despite lapse of a considerable period.

Assuming without admitting that the petitioner is an award staff and is liable to go before the Industrial Tribunal, then also the appeal requires to be decided in one way or the other by the Appellate Authority by holding either it has the jurisdiction or it lacks in the same. If this exercise is not completed then a further complexity will arise. If the petitioner approaches the Industrial Tribunal during the pendency of the

statutory appeal, the Industrial Tribunal in that event may not entertain the proceeding filed before it during the pendency of the appeal.

In the aforesaid facts and circumstances, I direct the present Appellate Authority authorised to hear out an appeal after the merger of UBI with PNB to decide on the petitioner's appeal within a period of three months from the date of communication of a server copy of this order in accordance with law. The Appellate Authority shall allow the petitioner a reasonable opportunity of hearing and shall pass an independent order without being influenced in any manner by any observations made in the instant order.

It is also made clear that I have not gone into the merits as to the maintainability and validity of the appeal said to have been preferred by the petitioner.

The writ petition is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)

