

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.592 of 2018

Sri R.K. Behera

....

Appellant

Mr. M.K. Pati, Advocate

-versus-

Indian Bank and others

....

Opposite Parties

None

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

Order No.

02.

I.A. No.978 of 2018

ORDER
09.11.2022

1. This is an application seeking condonation of delay of 318 days in filing the writ appeal. The reason for the delay as explained in para 2 is the illness of the Appellant between 15th January 2018 to 26th July 2018 due to 'Hepatitis'.

2. Although the medical certificates were not enclosed to the application, one medical certificate dated 26th July 2018 is handed over in Court today by the learned counsel for the Appellant. That medical certificate only states that the Appellant was under treatment, but not that he was unable to move around or was bedridden. The medical certificate produced does not convincingly explain the inordinate delay of 318 days in filing the appeal. Consequently, the Court is not inclined to condone the delay. Accordingly, the I.A. is dismissed.

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3. Nevertheless, the Court has also examined the appeal on merits.

4. This appeal is directed against a judgment dated 25th January 2018 of the learned Single Judge dismissing the Appellant's W.P.(C) No.7546 of 2007 whereby the Appellant had challenged the memorandum of charges framed against him in a disciplinary inquiry, the inquiry report of the Enquiring Officer (EO), the penalty of removal from service passed by the Disciplinary Authority (DA), the order of the Appellate Authority (AA) dismissing the appeal and the order of the Reviewing Authority (RA) dismissing the Appellant's review petition.

5. One of the grounds urged by the Appellant before the learned Single Judge was regarding violation of principles of natural justice and in particular, about non-supply of relevant documents. The learned Single Judge noted that the Appellant himself had not filed any document to support his contention regarding prejudice caused to him as a result of non-supply of any relevant document. Relying on the judgment in *Union of India v. Alok Kumar (2010) 5 SCC 349*, the learned Single Judge rightly observed that in the absence of specific pleadings about the prejudice caused, the Petitioner cannot seek invalidation of the proceedings on the ground of alleged violation of principles of natural justice.

6. Even before this Court, the Appellant is unable to show what prejudice has been caused to him as a result of non-supply of copies of documents. In fact, no such plea appears to have been raised at any stage of the proceedings earlier than the learned

Single Judge. Consequently, the Court is not impressed with the said submission.

7. As regards the punishment of removal from service, there were as many as sixteen charges framed against the Appellant. Of these, four were held not proved and an equal number partly proved. However, the remaining eight charges were held proved. Given the large number of charges held either fully or partly proved, and with a number of them involving financial misdemeanour touching on the integrity of the Appellant, the Court is of the view that punishment of removal from service cannot be termed disproportionate.

8. In other words, no grounds have been made out for interfering with the inquiry report, the DA's order of removal and the orders of the AA and the RA rejecting the further appeal/review of the Appellant.

9. There is no merit in the appeal. It is dismissed both on the ground of delay as well as merits.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin