

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 850 OF 2017
WITH
INTERIM APPLICATION (L) NO. 13275 OF 2022**

Shridhar Rukka Anchan ...Petitioner

V/s.

Dena Bank & Ors. ...Respondents

Mr. Burhan V. Bukhari for the petitioner/applicant.

Mr. Vishal Talsania with Mr. N. N. Gawade i/by M/s.
Sanjay Udeshi & Co., for respondent nos. 1 to 3
and for proposed respondent no. 5.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: JUNE 14, 2022

P.C.:

1. Dena Bank, respondent no.1, had employed the petitioner as cashier-cum-clerk. Thereafter, the petitioner was promoted to the post of Officer in Junior Management Grade Pay Scale I in 1991.

2. While the petitioner was so employed, his disciplinary authority initiated disciplinary proceedings. Such proceedings culminated in a final order dated 16th August 2002 whereby the petitioner was dismissed from service. Questioning the order of the disciplinary authority, the petitioner presented an appeal dated 3rd October 2002 before the appellate authority,

received by it on 4th October 2002. The appeal was, however, not decided by the appellate authority.

3. Simultaneously, the petitioner had been prosecuted in a criminal proceeding for committing offences under sections 120-B read with sections 409, 477-A, 201 of the Indian Penal Code read with section 13(1)(d) of the Prevention of Corruption Act, 1988. Having faced trial, the petitioner has since been acquitted by a judgment and order of the Special Judge (C.B.I.), Greater Bombay dated 30th August 2012.

4. On 27th August 2015, the petitioner invoked the writ jurisdiction of this Court by instituting this writ petition wherein he prayed for quashing of the order of dismissal dated 16th August 2002 as well as a show-cause notice dated 30th January 2014, whereby forfeiture of the employer's contribution to the provident fund was proposed.

5. During the pendency of the writ petition, Dena Bank has merged with Bank of Baroda. In view of such merger, Dena Bank has no independent existence as of today. We grant leave to the petitioner to add Bank of Baroda as respondent no. 5. Amendment be carried out in the cause-title of the writ petition forthwith.

6. Turning attention to the merits of the petitioner's claim, we see no reason to examine his challenge to the order of dismissal dated 16th August 2002 in view of non-disposal of the appeal filed against such order on 4th October 2022. However, at this stage, Mr. Talsania, learned advocate for Bank of Baroda submits that since the appeal was presented on 4th October 2002 before the appellate authority of Dena

Bank and such appeal may not be traceable, the petitioner may be granted liberty to file a fresh appeal, raising all points that were raised in such appeal as well as any point available to him now.

7. We find such submission to be fair and reasonable.

8. Accordingly, we dispose of this writ petition granting liberty to the petitioner to present an appeal against the order of dismissal dated 16th August 2002 before the competent appellate authority of Bank of Baroda, within a period of three (3) weeks from date. In the event of presentation of such an appeal within three (3) weeks, the competent appellate authority shall not dismiss the appeal on the ground of limitation but proceed to decide the same on merits and in accordance with law. All contentions are left open to be urged by the petitioner in the appeal. There shall be no order as to costs.

9. In view of the aforesaid order, the interim application also stands disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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