

WPA 23594 of 2023

Gopal Prosad Ghosh
vs.
United Bank of India & Ors.

Mr. Uttam Kumar Ghosh

.....for the petitioner

Mr. R.N. Majumder

Mr. S.M. Obaidhullah

.....for the PNB

Leave as prayed for by the learned counsel appearing on behalf of the petitioner to make necessary amendments to the cause-title, in view of the fact that the United Bank of India has merged with the Punjab National Bank (PNB), is granted.

The case of the petitioner is that he has been unfairly **dismissed** from service. Such order of **dismissal** was challenged under the Industrial Disputes Act. The Industrial Disputes Tribunal modified the said order of punishment and directed the management to reinstate the petitioner in service without any back wages or increments.

Such order was challenged by the Employer/Union Bank of India in WP No. 14366(W) of 1999.

By an order dated September 15, 2000, the Hon'ble Coordinate Bench was of the view that the Award passed by the Tribunal was a perverse one.

The Tribunal ought not to have interfered with the findings of the Enquiry Officer based on a report of the hand writing expert. The punishment of **dismissal** should not have been modified. Therefore, the impugned award was set aside.

The order passed by the Coordinate Bench was challenged in appeal being FMA 376 of 2005. By an order dated May 21, 2009 the Hon'ble Division Bench **dismissed** the appeal.

On September 1, 1998 the learned SDJM, Kalyani, Nadia directed that since 15 years had passed and the Criminal Trial had not yet commenced and the prosecution was unable to produce the Case Diary and the petitioner was facing harassment for the past 15 years there was no other option but to discharge the accuseds,, at that stage. All the accuseds were discharged under Section 329 of the Criminal Procedure Code and released from bail bond. Now the petitioner prays for reinstatement in service and other pensionary benefits, since he has been discharged in the criminal proceedings.

Mr. Majumder, learned counsel appearing on behalf of the PNB submits that the Hon'ble Division Bench of this Court affirmed the order passed by the Disciplinary Authority. Therefore, there is no question of reopening of the issue in the present case.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the disciplinary proceedings initiated by the employer is a separate and distinct proceeding from the criminal proceedings that an employee may face in the Court of law. **Discharge** in the criminal proceedings due to lack of evidence or due to the negligence on the part of the State to initiate the trial will not automatically lead to exoneration in case of the disciplinary proceedings.

The order passed by the Disciplinary Authority was affirmed by an Hon'ble Coordinate Bench in 2000 and reaffirmed by an Hon'ble Division Bench of this High Court in 2009. This Court also finds it perplexing that the order of discharge dated September 1, 1998 passed by SDJM was not placed before the Coordinate Bench. Therefore, the order passed by the Disciplinary Authority cannot be again challenged by way of filing of a fresh writ petition being WPA 23594 of 2023. There is no fresh cause of action.

In the event, the petitioner is inclined to bring the order passed by learned Sub-divisional Judicial Magistrate before the authorities of the Bank he may make a fresh representation, if so advised. However, this Court cannot interfere with the order of penalty passed by the Disciplinary Authority.

Accordingly, **WPA 23594 of 2023** is **dismissed.**

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)