



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.3945/2022
Chandrakant Shankarla Smani

..VS..

**The Dy.General Manager, Circle Head, Appellate Authority,
Punjab National Bank, Nagpur and anr**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri N.S.Warulkar, Counsel for the Petitioner.

CORAM : AVINASH G.GHAROTE & URMILA JOSHI-PHALKE, JJ.
DATE : 25/09/2023

1. Heard learned counsel Shri N.S.Warulkar for the petitioner.

2. By this petition, the petitioner is challenging order of termination dated 20.5.2010 issued by respondent No.2 - Assistant General Manager, Disciplinary Authority, Punjab National Bank, Nagpur (the respondents' bank) and forfeiture of gratuity.

3. The matter is listed for admission and since a very short question is involved in the petition, the matter can be disposed of at the stage of admission itself.

4. The petitioner, employee of the respondents' bank, was working as head cashier. The respondent No.1 is statutory appellate authority of the said bank. The petitioner was

appointed in the respondents' bank on 18.12.1992. He was served with chargesheet on an allegation that he has misappropriated amount. The departmental enquiry was conducted and enquiry report dated 9.1.2010 was issued. In view of the said enquiry report, the petitioner was held guilty and was terminated from service. Being aggrieved with the same, he preferred an appeal before respondent No.1 - the Deputy General Manager, Punjab National Bank, Nagpur on various grounds.

5. As per contentions of the petitioner, he was expecting that he would be called for hearing on his appeal, however, he was never communicated regarding dismissal of his appeal. He received a communication on 28.6.2021, whereby he was informed that his appeal was dismissed on 21.2.2011. The petitioner was acquitted of criminal proceedings i.e. Criminal Case No.78/2008 by order dated 7.9.2018 under Section 409 of the Indian Penal Code. Despite the petitioner was continuously pursuing his appeal, he was never communicated about the decision of the appeal and the communication dated 28.6.2021 was issued to him stating that his appeal is already dismissed by the appellate authority and, therefore, he approached this court. The contention of the petitioner is that an opportunity of hearing was not granted to

him and he was never communicated that his appeal is dismissed in the year 2011 itself as he for the first time received a communication disclosing that his appeal is dismissed on 21.2.2011 and, thereafter, he immediately approached this court.

6. Learned counsel for the petitioner reiterated the contentions and vehemently submitted that for the first time it came to knowledge of the petitioner that his appeal is dismissed as he received communication on 28.6.2021 and, thereafter, within a reasonable period, he approached this court. The petitioner was not given an opportunity of hearing and the decision taken by respondent No.1 is against the principles of natural justice.

7. It appears that the chargesheet was issued to the petitioner on 21.2.2009 and the departmental enquiry was conducted and he was held guilty of the misconduct. The enquiry report shows that as the petitioner was held guilty, he was terminated from the service. Being aggrieved with the same, he preferred an appeal. The communication dated 28.6.2021, which is filed on record by the petitioner, itself shows that copy of order dated 21.2.2011 passed by the circle head for further necessary action was communicated to him.

The note in the said letter shows that the incumbent at branch officer, Achalpur is requested to deliver the enclosed order to the petitioner. The appeal was dismissed on 21.2.2011 and the subsequent order in pursuance of dismissal of the appeal was communicated to the petitioner as per the communication dated 21.9.2011. After 21.9.2011, i.e after the gap of approximately 12 years, the petitioner approached the court and there is no explanation as to the said delay. Though the petitioner contended that he was not communicated by the respondents' bank regarding the dismissal of the appeal and forfeiture of the gratuity, the same contentions are not substantiated by any documents or any material on record. Considering inordinate delay, which is not explained and the contention of the petitioner that the order dated 21.2.2011 was not communicated is not substantiated by any material. We are not inclined to entertain the petition and the petition is **dismissed**. No costs.

(URMILA JOSHI-PHALKE, J.) (AVINASH G.GHAROTE, J.)

!! BrWankhede !!

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