



W.P.(MD)No.8040 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.8040 of 2020
and
W.M.P.(MD)No.7470 of 2020**

K.Balasubramanian

... Petitioner

Vs.

1. The Chairman and Managing Director,
Punjab National Bank,
Head Office,
Sector 10, DWARKA,
New Delhi - 110 075.
2. The Executive Director (Personnel),
Punjab National Bank,
Head Office,
Sector 10, DWARKA,
New Delhi - 110 075.
3. The Zonal Manager,
Appellate Authority,
Punjab National Bank,
Human Resources Development Department,
Zonal Office,
46-49 Royapettah High Road,
Chennai - 600 014.



W.P.(MD)No.8040 of 2020

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Circle Head / Disciplinary Authority,
Punjab National Bank,
Khandha Enclave,
179 Sarojini Street,
Ramnagar,
Coimbatore - 641 109.

5. The Senior Manager,
Punjab National Bank,
Avanashi Road,
Tirupur - 641 603.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Ref.CO/CBE/HRD/DAC dated 13.02.2019 on the file of the fourth respondent and the consequential impugned order in CO/CBE/HRDD/2020, dated 13.02.2020 on the file of the third respondent and quash the same as illegal and consequently to direct the respondents 3 and 4 to reinstate the petitioner in services with back wages and all other monetary benefits.

For Petitioner : Mr.S.Rajasekar
Mr.T.Lajapathi Roy
Senior Counsel for

For Respondents : Mr.V.O.S.Kalaiselvan for R4
No appearance for R3
Tapal due for R1, R2 and R5



W.P.(MD)No.8040 of 2020

WEB COPY

ORDER

This Writ Petition has been filed to call for the records of the impugned order in Ref.CO/CBE/HRD/DAC dated 13.02.2019 passed by the fourth respondent and the consequential impugned order in CO/CBE/HRDD/2020, dated 13.02.2020 passed by the third respondent, quash the same as illegal and consequently, direct the respondents 3 and 4 to reinstate the petitioner in services with back wages and all other monetary benefits.

2. The learned counsel appearing for the petitioner would submit that the petitioner was working as Head Cashier-II in the fifth respondent office of Punjab National Bank, Tirupur. Initially, he was appointed as Clerk-cum-Cashier at Palani Branch of the Bank on 07.10.1996 and from 16.08.2011, he is working in the fifth respondent office. He is the Zonal Secretary of the Bank's Scheduled Caste and Scheduled Tribe Employees Welfare Association. While so, a charge sheet was issued by the Assistant General Manager, AGMO, Tirupur, who was the then Disciplinary Authority



W.P.(MD)No.8040 of 2020

WEB COPY

based on the complaints against the petitioner when he was working at Thiruvandapuram Branch in Dindigul District during the period from 10.08.2007 to 11.08.2011. He has denied the false allegations, vide reply, dated 25.12.2011 and requested not to proceed further. But the Enquiry Officer denied the assistance of lawyer, thereby, the petitioner has filed a Writ Petition before this Court in W.P.(MD)No.2292 of 2013. This Court has granted interim stay and subsequently dismissed the Writ Petition. Taking advantage of the dismissal order, the respondents proceed to conduct the enquiry in an arbitrary manner, completed the enquiry and submit a report on 16.02.2013. Without providing any opportunity to the petitioner, the fourth respondent has passed an order, imposing a punishment of compulsorily retirement with superannuation benefits, for which, the petitioner was called for to attend personal hearing on 08.02.2019. However, the Disciplinary Authority arbitrarily conducted the enquiry despite order of stay issued by this Court. Whereas, the Disciplinary Authority, has chosen to ignore petitioner's representation dated 19.02.2013 and imposed a proposed punishment of compulsory retirement. Challenging the proposed punishment of compulsory retirement, the petitioner has filed



W.P.(MD)No.8040 of 2020

WEB COPY

another Writ Petition before this Court in W.P.(MD)No.2936 of 2019. The learned counsel for the third respondent therein submitted that the final orders came to be passed on 13.02.2019 and hence, the said Writ Petition was dismissed as infructuous on 25.02.2019. Thereafter, the petitioner has filed an appeal before an Appellate Authority on 26.02.2019 and the Appellate Authority confirmed the order of punishment dated 13.02.2019. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the entire procedure adopted by the Original Authority as well as Appellate Authority is non est in law and they violated the principles of natural justice without providing an opportunity to the petitioner. Hence, the impugned orders are liable to be interfered with.

4. The learned counsel appearing for the fourth respondent Bank would submit that as against the order passed by the authority, the petitioner has an efficacious appeal remedy before the Central Industrial Tribunal in terms of the Industrial Disputes Act. In a catena of decisions, the Apex



W.P.(MD)No.8040 of 2020

Court as well as this Court has repeatedly held that in case, there is a statutory remedy available under the law, then this Court may not entertain a Writ Petition under Article 226 of the Constitution of India. Without exhausting the appeal remedy before the Tribunal, filing the present Writ Petition is not sustainable one. Accordingly, he prayed for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the fourth respondent and perused the materials placed before this Court.

6. Rendering any opinion on the merits of the case, will adversely affect the interest of the petitioner. However, as against the impugned order there is an effective alternative remedy available before the appellate authority. Without exhausting the appeal remedy, filing the petition under Article 226 is not maintainable. Hence, this Court, without expressing any opinion, permits the petitioner to make an appeal before the Tribunal within a period of four weeks from the date of receipt of a copy of this order. If any



W.P.(MD)No.8040 of 2020

appeal is made, the Tribunal is directed to consider and pass appropriate orders within a period of twelve weeks thereafter. If any application is filed the period pending before this Court is excluded for the purpose of limitation.

7. Accordingly, this Writ Petition is disposed of. No costs.
Consequently, connected Miscellaneous Petition is closed.

06.02.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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W.P.(MD)No.8040 of 2020

WEB COPY

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W.P.(MD)No.8040 of 2020

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W.P.(MD)No.8040 of 2020

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