

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Partha Sarathi Sen

FMA 2011 of 2015

Sri. Bijoy Kumar Dhara

Vs.

Union of India & Ors.

For the appellant : Mr. Subrata Bhattacharyya
Mr. Injranuj Dutta
Ms. Shipra Santra

For the Bank of India : Mr. S.M. Obaidullah
Mr. R.N. Majumder

Heard & Judgment on : July 9, 2024

PARTHA SARATHI SEN, J.:-

1. The instant appeal is directed against the order dated February 4, 2015 as passed by the learned Single Bench in WP No.22536 (W) of 2014 whereby and whereunder the said Single Bench found no materials to interfere with the findings of the enquiry officer, disciplinary authority as well as the appellate authority of the writ petitioner and, thus, dismissed the said writ petition by upholding the order of punishment of dismissal of the writ petitioner from his service.

2. The appellant felt aggrieved and, thus, preferred the instant appeal.
3. In course of hearing, learned Advocate for the writ petitioner/appellant at the very outset draws our attention to the memorandum of charges as framed against him. Attention of ours is also drawn to the order of punishment *vis-a-vis* the finding of the appellate authority. It is submitted further that pursuant to the alleged unlawful action on the part of the writ petitioner, a criminal proceeding was also initiated wherein though final report has been submitted but such report exonerated the writ petitioner which the appellate authority as well as the learned Single Bench has failed to visualize. It is, thus, submitted that on the above score, the instant appeal may be allowed and the order of punishment as imposed upon the appellant/writ petitioner may be quashed.
4. *Per contra*, learned Advocate appearing for the respondent authority submits before this Court that there cannot be any occasion to interfere with the findings of the enquiry authority, disciplinary authority as well as the appellate authority in absence of establishment of violation of principles of natural justice on the part of the said three authorities while holding the enquiry proceedings, imposition of punishment and disposal of the appeal. It is submitted further that since the finding of the appellate authority are not vitiated by any extraneous evidence, there is no justification to interfere with the order impugned.

5. We have meticulously perused the memorandum of charges as framed against the present appellant. We have also perused the order of punishment as passed by the disciplinary authority as well as the finding of the appellate authority. We have also considered the judgment impugned before us.
6. It appears to us that the disciplinary authority as well as the appellate authority while imposing punishment and while hearing the appeal have applied their independent minds on the basis of the materials as collected in course of the enquiry proceeding as against the writ petitioner and thereafter, passed the order of dismissal and those findings appear to be logical and just since those are based on proper appreciation of oral and documentary evidence as led by the prosecution witnesses.
7. On perusal of the order impugned, it appears to us that the learned Single Bench has also considered such aspects in the proceedings before the aforesaid three forums and also noticed that there was no occasion to interfere with such finding in absence of violation of principles of natural justice.
8. While hearing this appeal and while applying our independent mind over the materials as placed before us, it also appears to us that the aforesaid authorities have duly applied their independent minds while conducting the enquiry proceeding, while imposing the punishment as well as while disposing the appeal as preferred by the writ petitioner. It does not transpire to us that the aforesaid three authorities acted arbitrary or

relied upon some extraneous evidence in the said proceeding, at the time of imposing punishment upon the writ petitioner and while disposing the appeal as preferred by the writ petitioner/appellant.

9. In our considered view the appellant has failed to establish breach of principles of natural justice during the disciplinary proceedings. Articles of charges had been served upon the appellant. Enquiry report had been served upon the appellant. He had been offered adequate opportunity to represent his case. After considering his representation and the materials collected that the disciplinary authorities proceeded to impose the punishment as directed. Punishment is in the domain of the disciplinary authority.
10. Considering the entire materials as discussed (supra), we, thus, find no merit in the instant appeal.
11. Accordingly, the instant appeal is dismissed without any order as to costs along with all connected applications, if there be any.
12. Interim order, if there be any, stands hereby vacated.

(Partha Sarathi Sen, J.)

13. I Agree.

(Debangsu Basak, J.)