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Ct-08

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MAT 1564 of 2023
with
IA No. CAN 1 of 2023

The Reserve Bank of India & Anr.
Vs.
Pradip Kumar Ganguly & Ors.

Mr. Alok Kumar Banerjee, Sr. Adv
Mr. Arunabha Sarkar
... For the Appellants

Mr. Satyam Mukherjee
Mr. Purnendu Shekhar Ghosh
... For the Respondent no. 1/ Writ Petitioner

1. We have heard the learned counsel appearing for the parties.

2. Briefly stated that the writ petitioner was employed as Special Assistant, Issue Department (Cash), Reserve Bank of India, Kolkata had taken personal loan of Rs.1,30,000/- from the Bally Cooperative Bank Ltd. on 24th July, 2007 presumed to have been sanctioned by the Manager, Establishment Section, Reserve Bank of India, Kolkata. On an enquiry it was found that the Officer alleged to have sanctioned the loan was not in employment of the Bank during the time when the said loan was availed, for which, the first charge-sheet was issued that had culminated in an initial punishment of reduction of pay by four stages for four years on and from 16th May, 2008.

This order was, however, modified by the appellate authority on 5th August, 2008 by reducing it to three stages instead of four stages for a period of three years instead of four years.

3. Subsequently, the second charge-sheet was issued on the ground that the writ petitioner had failed to repay the loan together with accrued interest. The disciplinary authority imposed a punishment of reprimand on 18th December, 2009. Thereafter on 31st May, 2011 the third charge-sheet was issued on the ground that the amount of outstanding balance with regard to the loan amount from the Bally Co-operative Bank Ltd. mentioned in half-yearly liability statement as on 31st December, 2011 does not match with the amount reported by the Bally Co-operative Bank Ltd. This time the competent authority proposed reduction of substantive pay by five stages from the date of the final order i.e. 9th July, 2012. The disciplinary authority affirmed the said order. This order was the subject matter of challenge in the writ petition.

4. Learned counsel representing the writ petitioner has submitted that the writ petitioner was unable to produce the statement of account furnished by the Bally Co-operative Bank Ltd. on 9th February, 2012 showing the outstanding amount of Rs.1,11,028/- as Principal amount. However, the Chairman of Bally Co-operative Bank Ltd. on 21st January, 2011 mentions the outstanding amount as Rs. 3,54,159/- together with interest. Although it appears from the deposition before the enquiry officer that the writ petitioner wanted to produce the document dated 9th February, 2012 and he was not allowed, the fact remains that he should not have mentioned an amount in the half-yearly statement without verifying it from the Co-operative Bank.

5. Learned counsel for the petitioner has referred to a few documents to show that a sum of Rs.80,000/- has been paid and received on behalf of the Bally Co-operative Bank Ltd. On that basis it has been argued that taking into consideration the said amount, in the half-yearly liability statement, the petitioner mentioned an amount as outstanding. Even it is assumed that the said amount has been voluntarily declared, he should have been more careful in stating the said amount as his failure to do the same proves that the amount mentioned in the half-yearly statement is incorrect. It is correct that on 18th May, 2009 he made a request for a statement of account from the Co-operative Bank in order to enable him to pay the balance outstanding amount towards loan and it was not furnished he should have mentioned it along with the declaration as it shows that subsequently a statement was furnished by the Co-operative Bank dated 9th February, 2012. However, we cannot disregard the fact that if the petitioner could have been given an opportunity by the enquiry officer, he could have produced the relevant documents to justify the basis of his declaration in the half-yearly statement. The disciplinary authority also could have verified the same in consultation with the Bally Co-operative Bank Ltd. and ascertain the genuinity of the receipts he had produced from the agent deputed by the bank to collect the instalment amount. The writ petitioner has already suffered reduction of substantive pay by three stages for a period of three years from the date of final order. The authority has also found him to be in a financially distressed condition. Although we felt that the matter could have sent to the appellate authority for re-consideration of the punishment, the fact remains that the writ petitioner has retired from service in December, 2013.

6. On such facts and circumstances of the case, we reduce the substantive pay of the petitioner by three stages from 18th September, 2012 taking into consideration the earlier nurture of charge and the punishment imposed in respect of those charges.

7. In view of the aforesaid order, all arrears payable in terms of this order shall be released to the petitioner within eight weeks from date.

8. The impugned order is modified to the aforesaid extent.

9. In view of the above, the appeal is disposed of.

10. In view of disposal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly disposed of.

11. However, there shall be no order as to costs.

12. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.) **(Soumen Sen, J.)**