

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 18843 of 2013

**Mongal Mal
Vs.
Union of India & Ors.**

For the petitioner : Mr. Pinaki Chakraborti
Mr. Amal Banerjee

For the respondent nos. 4 : Mr. Baidurya Ghosal
to 9 : Mr. Sourav Mukherjee
Mr. Saikat Mukherjee
Ms. Anupama Biswas

Heard on : 12.08.2024

Judgement on : 12.08.2024

PARTHA SARATHI SEN, J.:

1. Parties are represented through their learned advocates.
2. By filing this writ petition under Article 226 of the Constitution of India, the writ petitioner has prayed for issuance of appropriate writ for quashing of the order dated 14.12.2012 as passed by the appellate authority of the respondent no. 4/bank authority

whereby and whereunder, the said appellate authority concurred with the finding of the disciplinary authority regarding dismissal of the writ petitioner from service.

3. For effective adjudication of the instant writ petition, some admitted facts leading to filing of the instant writ petition are required to be discussed in a nutshell.
4. On 17.07.1984, the present writ petitioner was appointed as junior clerk-cum-cashier at Mayurakshi Gramin Bank which subsequently merged with respondent no. 4 i.e., Paschim Banga Gramin Bank. The respondent no. 4/bank authority found some dereliction of duty on the part of the writ petitioner and accordingly, on 03.02.1995 a show cause notice was issued to him. Such show cause notice was duly replied to by the writ petitioner under cover of its letter dated 21.02.1995,
5. The respondent no. 4/bank authority was, however, not satisfied with such reply and accordingly, by an order dated 10.03.1995, it issued charge-sheet against the petitioner containing 12 numbers of charges along with imputations of misconduct. On the self-same day, i.e., on 10.03.1995, an order of suspension was issued upon the delinquent.

6. Thereafter, a disciplinary proceeding was started and in the midst of the disciplinary proceeding, the writ petitioner approached this Hon'ble Court by filing a writ petition being Civil Order No. 8155 (W) of 1995 which was disposed of by a co-ordinate Bench on 22.06.1995 by passing the following order:

"1) As the petitioner has already filed his (torn) statement, departmental proceeding as against him may continue;

2) The petitioner, if not already served a copy of the list of documents which he (torn) have inspection and/or obtain copies thereof, he would do so within 2 weeks from date, whereupon the Enquiry Officer, upon considering the relevancy of such documents, may either direct the respondent bank to supply copies of such documents or to give inspection thereof to the petitioner within 1 week thereafter.

However, in the event the petitioner has already filed such a list of documents, as has been stated in paragraph 10 of the writ application, the Enquiry Officer shall pass an appropriate order in terms of observations made hereinbefore, that is he would direct the bank to supply copies of such documents, or to give inspection thereof upon consideration of relevancy of such documents, within 1 week from the date of communication of this order. It is

stated that the documents annexed to the charge sheet have already been supplied to the petitioner.”

7. The enquiry proceeding was thereafter concluded and the enquiry officer submitted its report on 06.09.1995.
8. Pursuant to such submission of report, the disciplinary authority under cover of its letter dated 05.10.1995 had given an opportunity to the delinquent to file his reply in writing and, ultimately, by an order dated 20.10.1995, the disciplinary authority passed an order against the delinquent who is the writ petitioner before this Court for dismissal from service.
9. The delinquent, thereafter, preferred an appeal in accordance with law before the appellate authority wherein also he failed and the appellate authority by its order dated 27.11.2012 has dismissed such appeal which was communicated to the writ petitioner under cover of letter dated 14.12.2012 which is impugned before this Court.
10. In support of the instant writ petition, learned advocate for the writ petitioner submits before this Court that the very principle of natural justice has been violated at the instance of the respondent no. 4/bank authority in view of the fact that during the pendency of the disciplinary proceeding, the order of the co-ordinate Bench

as passed on 22.06.1995, was not complied with inasmuch as the writ petitioner was not given the relevant copies of the documents as prayed for and he was also denied inspection of the document as mentioned in the said order.

11. It is thus submitted that the finding of the disciplinary authority cannot stand since before the enquiry authority, the writ petitioner being the delinquent was prevented to raise his proper defence on account of non-supply of such relevant documents. It is further submitted that the enquiry authority while conducting the in-house proceeding has failed to consider the relevant evidence and on the contrary, it has placed his reliance upon some extraneous materials which he is not supposed to do. It is further submitted that the appellate authority mechanically endorse the view of the enquiry authority without applying its independent mind. It is further submitted that a valuable right of audi alteram partem was also denied both before the enquiry authority as well as the appellate authority.

12. Per contra, learned advocate for the respondent no. 4/bank at the very outset draws attention of this Court to page no. 13 of the affidavit-in-opposition. It is submitted that from the minutes of the enquiry proceeding, it would reveal that on 07.07.1995, the enquiry officer in compliance of the order of the Hon'ble High Court had

forwarded all the copies to the writ petitioner/delinquent and requested the petitioner to cooperate with the enquiry officer. It is further submitted that from the minutes of the enquiry proceedings, it would reveal further (as has been mentioned in the affidavit-in-opposition) that time and again the delinquent being the writ petitioner had refused to accept the letter of the enquiry officer containing the copies of the documents as prayed for.

13. It is further argued on behalf of the respondent no. 4/bank authority that being a writ court, this Court must be very slow in re-appreciating the evidence as recorded by the enquiry officer since this Court is not an appellate court and unless it has been shown that gross miscarriage of justice has occurred on account of non-appreciation of material evidence, the writ court may not intervene with the concurrent finding of the enquiry authority, disciplinary authority and the appellate authority. It is further submitted that in absence of any contrary materials, there is little scope to interfere with the findings as prayed for.

14. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it does not appear to this Court that the proceeding of the enquiry authority is vitiated by the principle of natural justice as argued on behalf of the learned advocate for the writ petitioner. On being

asked, learned advocate for the writ petitioner has failed to show as to when the enquiry authority did not produce the relevant documents for his inspection and/or did not provide him the copy of the documents as called for by him.

15. On the contrary, from the affidavit-in-opposition, it appears to this Court that pursuant to the direction passed by this Hon'ble Court on 22.06.1995, such copies were forwarded to the writ petitioner which the delinquent did not accept for the reasons best known to him.
16. As rightly pointed out by the learned advocate for the respondent no. 4/bank authority that being a writ court, this Court is not expected to re-appreciate the evidence of the witnesses both of the management as well as of the defence all over again unless it has been shown that the enquiry authority while coming to its conclusion have not considered some material evidence which he is bound to consider in accordance with law and on the contrary they have been persuaded with some extraneous materials which were not on record.
17. It further appears to this Court that both the disciplinary authority as well as the appellate authority while passing the order of punishment as well as while affirming the order of punishment respectively, gave adequate opportunity of hearing to the writ

petitioner and after giving such due opportunity, both the aforesaid two authorities have applied their independent minds and thus, came to a logical conclusion that the writ petitioner deserves such punishment.

18. In view of the discussion made hereinabove, this Court thus finds a little scope to interfere with the order of dismissal as passed by the disciplinary authority on 20.10.1995 as well as the order passed by the appellate authority on 27.11.2012. As a result, the instant writ petition fails and is hereby dismissed but considering the facts and circumstances of the instant case without any order as to costs.
19. Accordingly, the instant writ petition being WPA 18843 of 2013 is dismissed along with all interim applications, if there be any.
20. All the parties are directed to act on the server copy of the order.
21. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.