

OD - 1

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/342/2024
IA NO: GA/1/2024,
GA/2/2025

ANUP GOSWAMI
VS
STATE BANK OF INDIA AND ORS

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 11th June, 2025

Appearance :
Mr. Samrat Sen, Sr. Adv.
Ms. Parna Roy Choudhury. Adv.
..for the appellant.

Mr. Debasish Saha, Adv.
Mr. Sanjoy Ghosh, Adv.
Mr. Avirup Roy Sanyal, Adv.
Ms. Sucheta Pal, Adv.
..for respondent.

The Court : There is a delay of 36 days in filing the appeal. We have perused the averments in the affidavit filed in support of GA/1/2024 and we find that sufficient cause has been shown for not preferring the appeal within the period of limitation. The delay in filing the appeal is condoned. Hence, GA/1/2024 is allowed.

This intra-Court appeal at the instance of the writ petitioner/appellant is directed against the order dated 19th July, 2024 in WPO/1258/2021. The appellant had filed the writ petition challenging the enquiry report dated 23rd December, 2020 issued by the enquiry officer being respondent no.5 and the final order of punishment inflicted on the appellant vide order dated 5th March, 2021 and the order passed by the appellate authority dated 19th May, 2021 which affirmed the order passed by the disciplinary authority imposing punishment on the appellant. The learned writ court has not gone into the merits of the matter but has dismissed the matter on the ground of maintainability. Challenging the said order, the appellant/writ petitioner has filed the present appeal.

We have heard Ms. Parna Roy Choudhury, learned advocate appearing for the appellant and Mr. Debasish Saha, learned advocate appearing for the respondent.

The undisputed fact is that the appellant is serving as a senior associate (CSS) in the respondent bank, namely, State Bank of India. It is also not in dispute that the appellant is a workman as defined under the bipartite settlement dated April 10, 2002 and in terms of Section 2(p) and Section 18(1) of the Industrial Disputes Act, 1947 read with Rule 58 of the Industrial Disputes (Central) Rules, 1957. Therefore, if it is an undisputed fact that the appellant is a workman in terms of the bipartite settlement, the remedy for the appellant to challenge the order of punishment is not before this Court but before the Industrial Tribunal constituted under the provisions of the Industrial Disputes Act, 1947. It is the endeavour of the learned advocate for the appellant to contend that the alleged misconduct for which the appellant was issued order of

punishment is not covered in the code of conduct of the bank. To examine the correctness of the submission we have perused the charge-sheet dated 19th May, 2020. Charge no.1 would state that taking a holistic view of the entire episode of the charge proceedings it is evident that the appellant posts in Facebook have been made are inappropriate, derogatory along with the false, unfounded and unsubstantiated accusations against the bank and its officials on social media platform and that the appellant violated the code of conduct of the State Bank of India vide circular dated 28th September, 2018. The code of conduct for employees as made known in circular dated 28th September, 2018 states that no employee shall write/express anything in any internet site or social media that may damage the reputation of the bank or any of its employees as regards such employees work in State Bank of India. Further, the circular states that no employee shall post, forward, upload or express any remarks/views on any internet site or social media or share a link content on social media which may be defamatory, indecent, abusive, discriminatory or derogatory to the bank or its officials/employees in their official capacity. Further, it states that no employee should criticize the management of the bank or the business processes or strategies of the bank or policies of the bank on any internet site or social media. Further, it states that no employee shall discuss, disclose, post, forward, upload or share any content related to any colleagues, competitors, customers, suppliers or other third parties including their personal details on any internet site or social media without their prior consent. Further, no employee of the bank without obtaining prior written approval from his/her controller shall express/forward any view on any internet site or social media about the

working of State Bank of India or the business of State Bank of India or generally about the State Bank of India or any of its officials. Further, every employee shall be personally responsible for the content he or she publishes/forwards in any form on social media.

Thus, we can prima facie hold that the charges framed against the appellant is for violation of the code of conduct under which there is a specific prohibition for any employee to express anything in the internet site or social media that may damage the reputation of the bank or any of its employees. If that be the case then the remedy of the appellant lies before the Industrial Tribunal and not by way of a writ petition. Apart from that the correctness of the findings of the enquiry officer and the ultimate order of punishment as well as the order passed by the appellant authority, if to be tested, requires evidence to be considered which obviously cannot be done in a writ petition which is based on affidavits. Therefore, the learned Single Judge was right in refusing to entertain the writ petition and relegating the appellant to avail remedy provided under the Industrial Disputes Act, 1947.

For the above reasons, we find no grounds to interfere with the impugned order. Accordingly, the appeal fails and is dismissed and the stay application stands closed.

We make it clear that whatever view expressed in this judgment and order will in no manner prejudice the appellant while exercising the remedy available under the provisions of the Industrial Disputes Act, 1947. In the event the appellant approaches the Industrial Tribunal by way of an appropriate application, the learned Tribunal shall consider the case based on the oral and documentary evidence that may be placed

uninfluenced by any observations made in this judgment and order or the observations/findings rendered by the learned Single Judge.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

S.Das/
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