



GAHC010120472012

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1130/2012

DEHI RAM BARUAH
S/O LATE GANTI RAM BARUAH, R/O VILL and P.O. BARAMBOI, P.S. HAJO,
DIST- KAMRUP, ASSAM

VERSUS

THE UCO BANK and 2 ORS
A GOVT. OF INDIA UNDERTAKING REPRESENTED BY ITS ZONAL
MANAGER MANIRAM DEWAN ROAD, SILPUKHURI, GHY-3

2:THE CHIEF MANAGER DISCIPLINARY AUTHORITY
UCO BANK
ZONAL OFFICE MANIRAM DEWAN ROAD
SILPUKHURI
GHY-3

3:THE GENERAL MANAGER
HUMAN RESOURCE MANAGEMENT DEPARTMENT
HEAD OFFICE
UCO BANK
3/4 DD BLOCK
SECTION-1
SALT LAKE
KOLKATA-70006

Advocate for the Petitioner : MR.N BARUAH

Advocate for the Respondent : MS.A BORA



BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

For the Petitioner : Shri M Sarma, Advocate.

For the Respondents : Shri RK Bhatra, Advocate.

Date of Hearing : 03.10.2023.

Date of Judgment : 03.10.2023.

03.10.2023.

Judgment & Order

The extra-ordinary jurisdiction of this Court conferred by Article 226 of the Constitution of India is being sought to be invoked by means of this writ petition whereby the petitioner has put to challenge an order of penalty of Compulsory Retirement which has also been upheld by the Appellate Authority. The petitioner was an officer of the UCO Bank and the aforesaid penalty has been imposed after a Departmental Proceeding.

2. According to the projection made by the petitioner, he was working as a Clerk-cum-Cashier in the Mukalmua Branch of the UCO Bank against whom a Departmental Proceeding (DP) was initiated vide issuance of a charge sheet in the year 2004 which included two number of charges. In the said proceeding, the petitioner was found guilty in respect of one charge which was followed by an order of dismissal. The said order of dismissal was also confirmed by the



Appellate Authority in the departmental appeal preferred by the petitioner.

3. The aforesaid actions were the subject matter of WP(C)/1106/2006. This Court vide an order dated 15.11.2010 had, however, set aside the order of dismissal. The Court had, however, remanded the matter with a direction for reinstatement with a further rider that the petitioner would be kept under suspension. Subsequently, on 15.03.2011, the petitioner was reinstated in service followed by an order dated 24.03.2011 by which, he was again put under suspension. Thereafter, a fresh disciplinary proceeding was initiated which culminated in an order dated 11.08.2011 by which a fresh penalty of Compulsory Retirement was imposed on the petitioner. The order, however, made it clear that the petitioner would be entitled to the superannuation benefits. The petitioner was unsuccessful in the departmental appeal which was rejected vide order dated 02.12.2011. It is the order of imposition of penalty of Compulsory Retirement as well as treating the earlier period as not to be in service which are the subject matter of challenge in the present writ petition.

4. I have heard Shri M Sarma, learned counsel for the petitioner. Also heard Shri RK Bhatra, learned counsel representing the respondent-UCO Bank.

5. At the outset, this Court is reminded of the limited scope of examining a matter pertaining to a Disciplinary Proceeding and such scope is mainly with regard to any procedural impropriety or illegality in the decision making process. This Court may also look into the aspect of proportionality of the penalty imposed but is not normally required to go into the merits, including the evidence which was before the Disciplinary Authority unless, there is a case of

gross perversity *qua* the evidence on record.

6. Shri Sarma, learned counsel for the petitioner, at the outset, has fairly conceded that the challenge is not with regard to any procedural impropriety. At the same time, he submits that the charges in question were not so grave which would entail a major penalty of Compulsory Retirement. The learned counsel for the petitioner has also submitted that the issues which were raised before the Appellate Authority were not considered in the proper perspective and the very fact that this Court in the earlier writ petition had interfered with the order of penalty of dismissal would show that the charges were not so grave in nature. It is also submitted that denial of any benefits for the period when the petitioner was out of service and reinstated as per orders of the Court is also untenable in law and liable to be interfered with.

7. *Per contra*, Shri Bhatra, learned counsel for the Bank has submitted that the contentions made on behalf of the petitioner may not be wholly correct. He submits that on a reading of the earlier order dated 15.11.2010 of this Court, it would reveal that the only consideration of the Court for remanding the matter was to give the petitioner all procedural safeguards. The learned counsel, however, at the same breath has pointed out that the direction for reinstatement was with a rider that the petitioner would be kept under suspension which itself would reveal that the interference was not whole hog and only on the limited ground. Shri Bhatra, learned counsel further submits that the challenge is not on any procedural impropriety but is towards the merits of the case which this Court would probably not delve into as the same is within the ambit of an administrative action. On the contention of proportionality, it is



submitted that the said aspect was taken into consideration and while imposing the penalty of Compulsory Retirement, the authorities have made it clear that the petitioner would be entitled to the superannuation benefits. He further submits that as on today, the petitioner has already surpassed the age of superannuation and therefore, for all practical purposes, no effective remedy can be granted in this petition.

8. After consideration of the rival submissions, this Court has noted that the challenge is not based on any procedural impropriety or illegality and therefore, the scope of examination of this matter has become absolutely narrow. On the point of proportionality which is an available ground, this Court is of the opinion that the penalty imposed which is Compulsory Retirement with a further observation that the petitioner would be entitled to all superannuation benefits does not appear to be, *per se* disproportionate to the charges leveled. The petitioner being an employee of the Bank, his duties are mainly on fiduciary capacity wherein the doctrine of public trust is applicable. The charges involved would show that there was dereliction of the duties of the petitioner who was entrusted with the duties of a Cashier. Under those facts and circumstances, this Court is of the view that there is no ground for interference with the penalty imposed. With regard to the ground of giving benefits for the period when the petitioner was out of service, this Court was of the opinion that the impugned order makes it clear that the petitioner would get the subsistence allowance for the period when he was under suspension and this Court has also noticed that in the earlier order dated 15.11.2010 when the order of dismissal was set aside, this Court while directing reinstatement had imposed a rider to keep the petitioner under suspension.

9. Under the above facts and circumstances, the prayer for any benefits for



the period when the petitioner was out of service does not appear to be supported by any substantial grounds.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant