

Onkar Sharma Vs. Disciplinary Authority-Cum- Dy. General Manager, P

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Court : Delhi

Decided On : Jan-15-2015

Judge : Valmiki J. Mehta

Appellant : Onkar Sharma

Respondent : Disciplinary Authority-Cum- Dy. General Manager, P

Advocate for Def. : Mr. Rajesh Kumar, Mr. Gaurav Kumar Singh

Advocate for Pet/Ap. : Ms. Anita Dhingra

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) No.9182/2014 15th January, 2015 % ONKAR SHARMA Through:Petitioner Ms. Anita Dhingra, Advocate. VERSUS DISCIPLINARY AUTHORITY-CUM- DY. GENERAL MANAGER, PUNJAB NATIONAL BANK Respondent Through: Mr. Rajesh Kumar, Advocate with Mr. Gaurav Kumar Singh, Advocate. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. After crystallizing the issues which have to be decided in the present writ petition filed under Article 226 of the Constitution of India, I asked the counsel for the petitioner that since in the opinion of this Court this writ petition is a gross abuse of the process of the law whether this Court should pass a judgment on merits and to which counsel for the petitioner states that the case has been

argued on merits and the writ petition be decided on merits.

2. By this writ petition, the petitioner seeks the relief of quashing of the departmental charge sheet dated 20.3.2009 and the penalty order dated 6.1.2010 imposed on conclusion of the departmental proceedings. By the impugned order dated 6.1.2010, the penalty which was imposed upon the petitioner reads as under:

Considering the gravity of proven charges, I decide to impose major penalty of Reduction to six stages lower in the time scale of pay for a period of two years with further directions that he will not earn increments of pay during the period of such reduction and on expiry of such period, the reduction will have the effect of postponing the future increments of his pay upon Shri Onkar Sharma.

3. There are many reasons why this writ petition is liable to be dismissed in limine with exemplary costs.

4. The first reason for dismissing of this writ petition is that the petitioner had challenged the selfsame penalty order dated 6.1.2010 by filing a writ petition in this Court being W.P.(C) No.6746/2013 and this writ petition was dismissed as withdrawn by an order dated 29.10.2013 and which order reads as under:

1. This matter was passed over on the first instance as the counsel was not available. At the second instance petitioner, who is present in person, states that he wants to withdraw the writ petition. I may also note that the petition itself prima facie did not have any cause of action because the relief claimed was a general one of quashing of enquiry proceedings against the petitioner initiated in terms of chargesheets issued in the years 2001, 2003, 2009 and 2010 although no specific charge-sheets are stated and nor have they been filed.

2. Dismissed as withdrawn in terms of the above observations.

5. Once again, the petitioner on the same cause of action filed a fresh writ petition being W.P.(C) No.4987/2014 and which writ petition was dismissed by another learned Single Judge of this Court vide order dated 19.08.2014 noting the order dated 29.10.2013 passed in W.P.(C) No.6746/2013 and this order dated

19.8.2014 reads as under:

1. The present petition has been filed by the petitioner praying inter alia for the following reliefs: (i) To direct the respondent to conduct an impartial and afresh investigation into all the allegations levelled under these charges in the years 2001, 2003, 2009 and 2010. (ii) To pass such order and further orders as may be deemed necessary on the facts and in the circumstances of the case.?
2. On a query being posed to the petitioner, who appears in person, as to how would such an innocuous relief, as sought in the present petition, be maintainable in the absence of any specific allegations with regard to the incidents that he claims had occurred in the year 2001, 2003, 2009 and 2010, he submits that the aforesaid incidents that he seeks investigation of, pertain to certain charges that were framed against him by the respondent/Bank, in the course of his employment.
3. At this stage, learned counsel for the respondent/Bank who appears on advance copy, states that a similar petition had been filed by the petitioner on 16.9.2013, registered as W.P. No.6746/2013 that was dismissed as withdrawn vide order dated 29.10.2013 and the said fact has deliberately been withheld by the petitioner in the present petition.
4. On being asked as to why has no averment been made by him with regard to filing of the earlier petition, the petitioner states that he has referred to another Writ Petition filed by him in this court, registered as W.P.(C) No.5984/2001, but admits that he has not mentioned the factum of filing of WP(C) No.6746/2013 or that it came to be dismissed as withdrawn on 29.10.2013.
5. This court is of the opinion that the petitioner has deliberately tried to mislead the court by withholding material information from it, particularly when the relief sought in the earlier writ petition is identical to the present one. It is very convenient for the petitioner to state that he does not seek quashing of the charge sheets served upon him in the years 2001, 2003, 2009 and 2010, as was prayed for in WP(C) No.6746/2013, but a perusal of the averments made in the present petition would indicate that even now, the petitioner seeks the same relief as he

prays for an investigation into the charges in the years 2001, 2003, 2009 and 2010, without specifying the nature of the charges.

6. It is also relevant to note that the earlier writ petition filed by the petitioner for similar relief was dismissed as withdrawn vide order dated 29.10.2013 and while passing the said order, no liberty was sought for or granted to the petitioner to file another petition for the same relief. Despite the same, the petitioner has had the audacity to file a second petition claiming the same relief, as was prayed for in the earlier petition, without advertng to the earlier round of litigation. This amounts to gross abuse of the process of the court. Simply because the petitioner is appearing in person, does not entitle him to a different treatment and nor does it give him the right to file a second petition for the same relief without informing the court about the earlier round of litigation initiated by him against the respondent/Bank based on the very same cause of action.

7. In view of the above position, the present petition is dismissed along with pending application, with costs of Rs.5,000/-imposed on the petitioner. The costs shall be deposited with the Delhi High Court Legal Services Committee within two weeks from today, while placing the proof of payment on record.

6. The petitioner is no wiser in spite of the fact that costs of Rs.5,000/- were imposed upon the petitioner while dismissing the writ petition by a learned Single Judge of this Court on 19.8.2014, and once again the present writ petition is filed. In my opinion, litigants such as the petitioner need to be dealt with by a very heavy hand inasmuch as right to approach the Court and access to judicial proceedings is only for a reasonable cause and not otherwise. There is no right to approach the Court repeatedly for the same cause of action, much less when the earlier writ petition on the same cause has been dismissed with costs against the petitioner.

7. Also, the writ petition is barred by delay and laches because the penalty order passed in January, 2010 cannot be challenged by means of a writ petition which is filed in November, 2014 i.e after almost around 3 years and 10 months. Petition is also therefore barred by delay and laches.

8. In view of the above, this writ petition is dismissed with costs of Rs.50,000/- and which costs shall be paid to the Prime Ministers National Relief Fund within a period of six weeks from today. Also, no writ petition be entertained of the petitioner by this Court or any other Court questioning the penalty order dated 6.1.2010 unless first costs of Rs.50,000/are deposited in the Court. JANUARY15 2015 Ne W.P.(C)No.9182 /2014

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