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2010 eGLR\_HC 10005313,2010 (3) LLJ 177

Before the Hon'ble MR BANKIM N. MEHTA, JUSTICE the Hon'ble MR. BHAGWATI PRASAD, JUSTICE

**SIDDHESHWARI G CHHAYA Vs. BANK OF INDIA AND OTHERS**

**LETTERS PATENT APPEAL No: 882 of 1999 , Decided On: 11/01/2010**

**D.D.Vyas, Dhaval Vyas, Prabhav Mehta, Nanavati Associates**

**MR.JUSTICE BHAGWATI PRASAD** This appeal is directed against the order dated 13th November 1997 passed by the learned Single Judge of this Court in Special Civil Application No.5305 of 1997 vide which the learned Single Judge has rejected the petition summarily.

The appellant was working as an Officer with respondent No.1. She was issued charge sheet on 16th August 1981 containing several charges under which the appellant was alleged to have misappropriated the bank money on several occasions. After completing the departmental enquiry, the appellant was dismissed from service vide order dated 28th July 1982. Against the said order of dismissal, the appellant filed departmental appeal. The appellate authority rejected the appeal and confirmed the order of punishment. Hence, the appellant filed Special Civil Application No.4697 of 1982 before this Court. This Court remanded the matter for fresh hearing by the appellate authority since the appeal was heard by the same person who conducted the disciplinary proceedings.

After remand, the appellate authority heard the appellant and decided the appeal afresh and vide order dated 29th January 1997 the appellate authority confirmed the order of dismissal. Feeling aggrieved by the said order the appellant filed Special Civil Application No.5305 of 1997. The learned Single Judge has not countenanced the challenge and rejected the said writ petition summarily vide order dated 13th November 1997.

Heard the learned counsel for the parties. The learned counsel for the appellant urged that the report of the enquiry officer was not given to the delinquent and has relied upon the decision of the Supreme Court in the matter of Union of India v. Mohd. Ramzankhan, AIR 1991 SC 471. The learned Single Judge has found that the law laid down by the Supreme Court is prospective and therefore at that stage the Inquiry Report was not required to be supplied to the

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delinquent and therefore this ground was not found favour with the learned Single Judge, we feel rightly so because until the decision of the Supreme Court in the case of Mohd. Ramzankhan (supra) it was only if the rules of the department provide that copy of the Inquiry Report was mandatorily required to be given to the delinquent, then only it is required to be given otherwise not. In that view of the matter, learned Single Judge held that this ground of challenge is not available to the appellant.

The next ground of challenge is that defence assistance was not available at the time of hearing. The learned counsel for the Bank submitted that it was only on one occasion that the defence assistance was not available and on all other occasions he was present. The said situation was conceded by the learned counsel for the appellant. Therefore also this ground was negatived by the learned Single Judge, we feel rightly so.

Lastly, learned counsel for the appellant urged that the enquiry officer and disciplinary authority closely monitored the matter. However, the case is of misappropriation and reputation of the bank is involved. In that view of the matter, if the order of dismissal has been passed, then it cannot be said that this was disproportionate to the delinquency looking to the amount involved. According to the learned counsel, it is a small amount. However, it is not the amount which is important. It is the delinquency and action which is important. If the action is misappropriation, then that speaks of attitude of the person. That person if continued in service it would jeopardise the reputation of the Bank.

In that view of the matter, no illegality is seen. The appeal has no merits. Hence, the same is rejected.

*Appeal dismissed*

