

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5698 OF 2017
[@ SPECIAL LEAVE PETITION (C) No.18228 OF 2016]

BAIJNATH PRASAD

Appellant(s)

VERSUS

THE CENTRAL BANK OF INDIA AND ORS

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. Disciplinary proceedings were initiated against the appellant on the ground that he knowingly made a false statement pertaining to his employment in the Bank. Though he was matriculate, he claimed the appointment as a sub-staff, producing a certificate of having passed 8th standard. Thereafter, he appeared for matriculation again with a different date of birth, as alleged, and after having passed the matriculation, secured promotion to the post of Clerk.

3. While continuing as Clerk, the respondent-Bank received information that the appellant had made a deliberate false statement regarding his education for securing the employment in the Bank. Thus, on

initiating disciplinary action, he was discharged from service with superannuation benefits. The departmental remedies were unsuccessful to the appellant.

4. In the High Court, the learned Single Judge took a view that he should be reinstated by denying one increment with cumulative effect, based on a circular. On appeal, the Division Bench found that the circular was not applicable in the case of the appellant and hence, the order passed by the learned Single Judge was set aside and the order of discharge passed by the Bank was restored.

5. Thus aggrieved, the appellant is before this Court in appeal, by way of special leave.

6. On 10.04.2017, the Court passed the following order :-

"Learned counsel appearing for respondent No. 1/Bank is directed to get instruction as to whether the misconduct alleged against the petitioner would come under gross misconduct and whether the gravest punishments of discharge was the only punishment permissible for the alleged misconduct and why a lesser punishment was not equitable in the circumstances."

7. Sh. Ashish Wad, learned counsel, inviting our reference to the bipartite settlement, submitted that as a matter of fact, the appellant was visited with only a lesser punishment since dismissal, removal and compulsory retirement were the other higher modes of punishment, but the Bank has taken a lenient view by imposing the punishment of discharge. On the contrary, Mr. Subhro Sanyal, learned counsel for the appellant, submits that the other punishments of reduction of scale of pay to two stages, stoppage of an increment without cumulative effect, withdrawal of special pay, warning or entry of adverse remarks or fine were also prescribed punishments for proved gross misconduct.

8. Having extensively heard the learned counsel appearing on both the sides and having regard also to the fact that the appellant is only 46 years of age and that he belongs to a backward class, we are of the view that this is an eminently fit case for invocation of Article 142 of the Constitution of India for doing complete justice.

9. The appeal is, hence, disposed of as follows :-

i) The punishment imposed on the appellant shall stand substituted as reduction to the lower rank of

sub-staff from the date of his promotion to the post of Clerk.

ii) The appellant shall be treated and continued as sub-staff only, till his superannuation.

iii) He shall be reinstated in service within two weeks.

iv) He shall not be entitled to any backwages.

However, the period between the discharge and reinstatement shall be treated as service for all other purposes in the category of sub-staff. However, there shall be no recovery of any salary drawn by the appellant as a Clerk.

10. Needless also to make it clear that being an order passed under Article 142 of the Constitution of India, this case shall not be treated as a precedent.

No costs.

JUDGMENTJ.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
April 25, 2017.