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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 17/2023

SH VIJAY MALHAN

..... Appellant

Through: Ms.Srishti Agnihotri & Ms.Tara
Elizabeth Kurien, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Mukul Singh, CGSC with Ms.Ira
Singh, Adv. for R-1/UOI.
Ms.Kittu Bajaj, Adv. for R-2 to 4.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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08.05.2024

CM APPL. 27186/2024 (delay of 53 days)

1. This is an application filed by the appellant seeking condonation of 53 days delay in filing the application for placing on record additional documents.
2. The application is, for the reasons stated therein, allowed and the delay of 53 days in filing the application for placing on record additional documents stands condoned.
3. The application stands disposed of.

LPA 17/2023

4. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 13.10.2022 passed by the learned Single Judge in W.P.(C) 2903/2003. Vide the impugned order, the learned Single Judge has rejected the appellant's challenge to the order dated 23.01.2003 passed by the disciplinary authority imposing the penalty of removal from service on the appellant.



5. The primary submission of learned counsel for the appellant is that even though the appellant had, after a full-fledged departmental enquiry, been exonerated by the Enquiry Officer, the disciplinary authority vide its disagreement note dated 13.08.2002, has not only disagreed with the findings of the Enquiry Officer but has also given a conclusive opinion regarding all the five charges levelled against the appellant as having been proved. In support of her plea that while disagreeing with the findings of the enquiry officer, the disciplinary authority could only record tentative reasons, not being in the nature of conclusive findings, she draws our attention to the disagreement note dated 13.08.2002 annexed as 'Annexure A-9' to the appeal. She, therefore, prays that the impugned order as also the orders passed by the disciplinary authority alongwith the appellate order be set aside.
6. Learned counsel for the respondent seeks an adjournment to make submissions.
7. Having perused the disagreement note dated 13.08.2002, the relevant extracts whereof are noted hereinbelow, even though, we are of the *prima facie* view that the disagreement note dated 13.08.2002 was clearly in the teeth of the decision of the Apex Court in ***Punjab National Bank v. Kunj Behari Misra, (1998) 7 SCC 84*** as also various decisions of this Court on the same issue, we are, at the request of learned counsel for the respondent, deferring hearing.

“The above disagreement is on the basis of the perusal of evidence produced in the enquiry and as per the Regulation 7(2) of Oriental Bank of Commerce Officer Employees (Discipline & Appeal) Regulations, 1982.



After discussing all the above facts, the following charges stand proved against the C.O.

Charge No. 1 - Proved

Charge No. 2(a) - Proved

Charge No. 2(b) - Proved

Charge No. 2(c) - Proved

Charge No. 3 - Proved.

A copy of the Note alongwith the findings of IA be sent to CO for his comments in the matter.

*Sd/-
GENERAL MANAGER
DISCIPLINARY AUTHORITY”*

8. At request of the learned counsel for the respondent, list on
16.05.2024.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 8, 2024

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