

X;

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 11146 OF 2013  
(Arising out of SLP(C) No. 16541 of 2010)

|State Bank of India & Ors. |.. Appellant(s) |

Versus

|Kamal Kishore Prasad |.. Respondent(s) |

O R D E R

1. Leave granted.

2. This appeal, by special leave, is directed against the judgment and order passed by the High Court of Judicature at Patna in Letters Patent Appeal No. 378 of 2003, dated 22.04.2010.

3. The delinquent-respondent was an officer working in the appellant-bank. The Disciplinary Authority being of the opinion that the respondent committed certain acts of omission and misconduct had suspended him from service and issue a charge memo and also served statement of allegations to the delinquent officer. After receipt of the charge memo the delinquent officer had filed his reply denying all the charges levelled. Not being satisfied with the reply so filed, the Disciplinary Authority thought it fit to appoint the Enquiry Officer to enquire into the allegations made in the charge memo against the delinquent officer.

4. The Enquiry Officer, after holding a detailed enquiry opined that the delinquent officer was partly found guilty of certain acts of misconduct alleged in the charge memo. The Enquiry Officer thereafter had submitted his report to the Disciplinary Authority for further action as provided under the State Bank of India Officers Service Rules (for short, "the Rules").

5. After going through the report so submitted by the Enquiry Officer, the Disciplinary Authority being of the opinion that the Enquiry Officer was not justified in holding that all the charges alleged against the delinquent officer are not proved, and since it disagreed with the findings of the Enquiry Officer had issued a tentative notice to the respondent as required under the Rules. The delinquent officer had replied to the said show cause notice issued by the Disciplinary Authority.

6. Since the Disciplinary Authority could not take any decision after receiving the reply to the show cause notice issued to him in view of Proviso 68(3)(III) of the Rules had forwarded the records along with Enquiry Report to the Appointing Authority.

7. After receipt of the records and the Enquiry Report, the Appointing Authority has passed the order of dismissal from service on the delinquent officer.

8. Aggrieved by the same, the respondent was before the Writ Court in Civil Writ Jurisdiction Case No. 2739 of 2000. The learned Single Judge being of the opinion that the Appointing Authority before imposing major

penalty on the delinquent officer ought to have assigned reasons for disagreement with the finding of the Enquiry Officer. Accordingly, the Writ Court has set aside the orders passed by the Appointing Authority with the liberty to the Appointing Authority to proceed with the enquiry against the delinquent officer in accordance with law and in the light of the observations made in the course of the order.

9. Aggrieved by the said order the appellant-bank had preferred Letters Patent Appeal No. 378 of 2003 before the Division Bench of the High Court of Judicature at Patna. By the impugned judgment and order the Division Bench has dismissed the appeal preferred by the appellant-Bank with some strange directions. Aggrieved by the said judgment and order passed by the High Court the appellant- Bank is before us in this appeal.

10. We have heard learned counsel for the parties to the lis.

11. The Writ Court while deciding the writ petition filed by the respondent against the orders passed by the Appointing Authority had followed the dicta of this court wherein it is said that the person who hears the matter should necessarily pass an order. The Division Bench of the High Court in its judgment has referred to the subsequent decisions of this Court. In our opinion, we need not have to refer to those decisions. It is now a well settled principle that the person who hears the matter requires to pass an order.

12. Since, that is the view of the Learned Single Judge, we are of the opinion that such a view cannot be taken exception to by us. However, the Division Bench while rejecting the Letters Patent Appeal filed by the appellant-bank has made certain observations which in our opinion, would not arise in the matter of this nature. Therefore, we cannot sustain the judgment and order passed by the Division Bench of the High Court.

13. In the result, we allow this appeal and set aside the judgment and order passed by the Division Bench of the High Court in Letters Patent Appeal No.378 of 2003. Since we are told that the delinquent officer has already retired from service on attaining the age of superannuation, we now direct the Appointing Authority to take appropriate decision as expeditious as possible, at any rate within two months from the receipt of copy of this order.

14. All the contentions of all the parties are kept open.

Ordered accordingly.

.....J.  
[ H. L. DATTU ]

.....J.  
[ MADAN B. LOKUR ]

NEW DELHI,  
NOVEMBER 25, 2013.

ITEM NO.206

COURT NO.4

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16541/2010

(From the judgement and order dated 22/04/2010 in LPA No.378/2003 of The HIGH COURT OF PATNA)

S.B.I.& ORS.

Petitioner(s)

VERSUS

KAMAL KISHORE PRASAD

Respondent(s)

(With appln(s) for permission to file additional documents and office report)(FOR FINAL DISPOSAL)

Date: 25/11/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. S. Balakrishnan, Sr. Adv.  
Mr. R.N. Keshwani, Adv.  
Mr. Ram Lal Roy, Adv.

For Respondent(s) Mr. Apurb Lal, Adv.  
Ms. Susmita Lal, Adv.  
Mr. Daleep singh, Adv.  
Ms. Kumari Asha, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed of in terms of the signed order.

| [ Charanjeet Kaur ] | | [ Vinod Kulvi ] |  
|Court Master | |Asstt. Registrar |

[ Signed order is placed on the file ]