

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****LETTERS PATENT APPEAL NO. 881 of 2017****In SPECIAL CIVIL APPLICATION NO. 19284 of 2015**

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NITIN RAMANLAL VASHI....Appellant

Versus

BANK OF BARODA....Respondent

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Appearance:

MR NK MAJMUDAR, ADVOCATE for Appellant

MR DARSHAN M PARIKH, ADVOCATE for Respondent

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY**

and

**HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

**Date : 09/06/2017**

**ORAL ORDER**

**(PER : HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY)**

This Letters Patent Appeal under clause-15 of the Letters Patent is filed by the original petitioner in Special Civil Application No. 19284 of 2015, aggrieved by the order dated 24.2.2016 passed by the learned single Judge in the said petition.

The Special Civil Application No. 19284 of 2015 was filed with the following prayers:

- (A) admit this petition;
- (B) issue appropriate writ of mandamus or any other appropriate writ, order or direction quashing and setting aside

the order dated 24/1/2005 passed by the Appellate Authority rejecting the Appeal preferred by the petitioner and confirming the order passed by the Deputy General Manager and Disciplinary Authority dated 29/7/2003 by which extreme penalty of removing the petitioner from service came to be imposed upon the petitioner and suspension period has been treated as period not on duty;

(BB) Be pleased to issue appropriate writ, order or direction and be pleased to direct the Chairan and Managing Director i.e. reviewing authority to consider and decide the review appeal/review annexed at Annexure-I (page no.108-110) preferred by the present deponent/petitioner, as expeditiously as possible, in the interest of justice.

(C) issue appropriate writ of mandamus or any other appropriate writ, order or direction and be pleased to hold that the disciplinary proceedings initiated against the petitioner were illegal, arbitrary and violative of principles of natural justice;

(D) pending admission and final disposal of the present petition, be pleased to grant interim direction and direct the respondent authority to reinstate the petitioner in service forthwith and to make payment of salary and other consequential benefits;

(E) pass such orders as thought fit in the interest of justice.

When the appellant-original petitioner was working as Senior Branch Manager in the respondent bank, disciplinary proceedings were initiated against him on the charge of misconduct and he was removed from service by order dated 29.7.2003 passed by the disciplinary authority. The said order was confirmed by the appellate authority by order dated 24.1.2005. Thereafter, it appears that the

petitioner also filed mercy petition (Review) before the Chairman of the respondent and the said mercy petition was also not considered. After waiting for number of years, the petitioner approached this Court by filing the above Special Civil Application in the year 2015 challenging the order dated 24.1.2005 passed by the appellate authority confirming the order passed by the Deputy General Manager and Disciplinary Authority dated 29.7.2003. Learned single Judge, without going into the merit of the matter, dismissed the petition mainly on the ground of unexplained abnormal delay on the part of the petitioner.

Shri N.K. Mazmudar, learned counsel for the appellant submitted that the learned single Judge ought not to have dismissed the petition only on the ground of delay and that the learned single Judge ought to have appreciated that in view of peculiar facts and circumstances of the present case, delay was caused in preferring the petition, which could have been condoned and the petition ought to have been considered on merit.

On the other hand, learned counsel Shri Darshan Parikh, appearing on behalf of the respondent-Bank submitted that there is unexplained abnormal delay on the part of the petitioner in approaching this Court after the appellate order was passed on 24.1.2005.

In this case, it is not in dispute that the order of removal was passed by the disciplinary authority in the year 2003, which was confirmed by the appellate authority in the year 2005. Even thereafter, the petitioner preferred mercy petition which was also not considered. After waiting for a long period of about 10 years, the petitioner approached this Court by filing Special Civil Application

challenging the order of the appellate authority. However, the petitioner has not offered any explanation for the abnormal delay and laches in preferring the petition. The learned single Judge has rightly dismissed the petition without going into the merits of the matter only on the ground of unexplained abnormal delay and laches on the part of the petitioner.

In that view of the matter, we do not find any reason to interfere with the order passed by the learned single Judge. Accordingly, the appeal is dismissed. No order as to costs.

**(R. SUBHASH REDDY, CJ)**

**(VIPUL M. PANCHOLI, J.)**

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