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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.2970 of 2024

In the matter of appeals under Section 10 of the Letter Patent of the Patna High Court, read with Article-4 of the Orissa High Court Order, 1948.

Itishree Nath *Appellant*

-Versus-

**1. Bank of Baroda, represented through its
M.D & C.E.O, Corporate Centre.**

**2. Executive Director, Bank of Baroda
Corporate Centre.**

**3. Deputy General Manager, Bank of Baroda,
Zonal Office, Baroda Zone**

**4. Regional Manager, Bank of Baroda,
Godhra Region, Regional Office**

**5. Regional Manger, Bank of Baroda,
Regional Office, Bhubaneswar Region** *Respondents*

Advocates Appeared in this case:

For Appellant - Mr.Sidheswar Mallik

For Respondents - Mr.K.M.H. Niamati

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HON'BLE MR. JUSTICE KRISHNA S. DIXIT
HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment: 21.04.2026

PER KRISHNA S. DIXIT, J.

We prelude this Judgment with what **Khalil Gibran** (1883-1931) rhapsodically writes:



“

‘On Work’

...You work that you may keep pace with the earth and the soul of the earth.

For to be idle is to become a stranger unto the seasons, and to step out of life's procession, that marches in majesty and proud submission towards the infinite.

When you work you are a flute through whose heart the whispering of the hours turns to music.

Which of you would be a reed, dumb and silent, when all else sings together in unison?

Always you have been told that work is a curse and labour a misfortune.

But I say to you that when you work you fulfill a part of earth's furthest dream, assigned to you when the dream was born,

*And in keeping yourself with labour you are in truth loving life,
And to love life through labour is to be intimate with life's inmost secret...*

And if you cannot work with love but only with distaste, it is better that you should leave your work and sit at the gate of the temple and take alms of those who work with joy ...”¹

This Intra-Court Appeal by a removed delinquent Bank Official seeks to call in question a learned Single Judge’s order dated 11.09.2024 whereby her W.P.(C) No.5688 of 2022 has been negated. In the said Petition, she had laid a challenge to the removal order dated 30.04.2021 and the Appellate order dated 27.01.2022 which affirmed the removal.

2. Learned counsel for the Appellant vehemently urged the following grounds for voiding the impugned order:

(a) The Appellant was disabled from reporting to Godhra Region of the Bank from Bhubaneswar Region pursuant to Transfer Order

¹. Khalil Gibran’s *The Prophet* (1923).



dated 29.06.2019, inasmuch as she had to look after her aged & ailing parents, who had none else to do that.

(b) The inquiry was farcically held in haste with no due opportunity of participation, and therefore, there is violation of principles of natural justice.

(c) Even otherwise, removal from service on the ground of unauthorized absence is an extreme penalty, job being the only source of livelihood, and therefore, the same spurns the doctrine of proportionality.

3. Learned Panel counsel appearing for the Respondent-Bank resists the Appeal making submission in justification of the impugned order and the reasons on which it has been structured. He contends that, an Intra-Court Appeal of the kind has got its own limitation and therefore, a deeper examination of the findings of the Disciplinary Authority, as affirmed by the Appellate Authority and later reaffirmed by the learned Single Judge, cannot be undertaken in this limited jurisdiction. He tells us that the moral standards inbuilt in Article 226 and 227 of the Constitution of India for invoking writ jurisdiction have not been satisfied by the conduct & demeanor of the Appellant. Lastly, he tells us that once the finding of guilt is recorded in a duly constituted inquiry, the Court will not enter the domain of punishment, which exclusively is of the Disciplinary Authority.

4. Having heard learned counsel for the Parties and having pursued the Appeal papers, we decline indulgence in the matter,



broadly agreeing with the submissions made on behalf of the Respondent-Bank as under:

4.1. Appellant joined the service of the Respondent–Bank as Junior Manager Group (JMG) Scale-I Officer w.e.f. 26.05.2011. All through she had been working only in Bhubaneswar Region. The transfer order dated 29.06.2019 shifting her from Bhubaneswar Region to Godhra Region was issued, which she did not abide by. She also remained absent unauthorizedly for quite a long period, eventually resulting into institution of Disciplinary Proceedings with her full participation, culminating into order of removal simpliciter. The only allegation being unauthorized absence, such a Disciplinary Proceeding cannot be long drawn, only to cater to the arguable need of delinquent. Admittedly, the proceedings were held for hours. Therefore, the first contention that the Proceeding has been hastily completed does not merit acceptance, added reason being the absence of demonstrable prejudice by the arguable haste.

4.2. Ellen Sturgis Hooper (1812-1848) an American poet, in “I Slept, and dreamed that Life was Beauty” writes:

*“I slept, and dreamed that life was Beauty;
I woke, and found that life was Duty...”²*

The second contention that the Appellant had moral justification to stay away from the duty, inasmuch as she was looking after her aged Parents is bit difficult to countenance, even if it is factually assumed to be true. Reasons for this are not far to seek: Firstly, the Appellant did not disclose that she has an elder sister who is married and a brother who is a Doctor residing alone having

². The Dial (July 1840) p. 123.



distanced from the estranged spouse. There is absolutely no reason to assume that the Doctor son would not look after the aged parents in the evening of their lives. It is not the case of the Appellant that there are no siblings or that the Doctor son is in estrangement even with the parents. She has not disclosed about the sister or the brother, when she was expected to. Thus, her case is one of *suppressio veri*. A person who does not approach the Court with clean hands, clean heart & clean head is not entitled to invoke the writ jurisdiction.

4.3. Apex Court in *State of U.P. v. Gobardhan Lal*³ held as under:

"It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires...Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so... cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments..."

The contention that Appellant did not have full opportunity of hearing, inasmuch as her version was not fully allowed to be put, is bit difficult to countenance. The inquiry records disclose that when specifically asked as to whether she intended to examine any witnesses on her side, she answered it in the negative. The related

³. AIR 2004 SC 2165



contention that a delinquent may not examine other witnesses, but she herself can examine as a witness and that opportunity was not conceded to her, is too farfetched a contention to merit acceptance. Merely saying that opportunity was not given would not suffice in the absence of demonstrable prejudice that has been occasioned to a person by the arguable breach of natural justice. The plea of violation of principles of natural justice cannot be chanted like vedic mantra. It does not demonstrate substance but generates senseless sound.

4.4. The contention of learned counsel for the Appellant, that the punishment of removal from service is too harsh and that she has nothing to fall back upon except the job in question, again is liable to be rejected. Firstly, the Appellant has never disclosed anything as to job being the only source of livelihood in her Representation nor in her submission before the Disciplinary Authority nor before the Appellate Authority nor before the learned Single Judge. It is not taken up in the pleadings of Appeal. Such an off-hand contention cannot be entertained when no foundational pleadings are laid at the earliest point of time. In *Addisons Paints & Chemicals Ltd. v. Workman*⁴ Apex Court has held that refusal to report for duty upon transfer amounts to misconduct. Even if the transfer order is bad for some reason, the employee should comply with the transfer order first as a precondition for making representation against the same to the employer for the redressal of her grievance. **Margaret Chase**

⁴. AIR 2001 SC 436.



Smith (1897-1995) a Former member of the U.S Senate has written in her Book ‘Declaration of Conscience’⁵ as under:

“My creed is that public service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people and to the nation ...”

4.5. The last contention that the punishment of removal is disproportionate to the gravity of the misconduct, is again liable to be rejected. Ordinarily, the employees in public service like the one in this case are expected to join the places to which they are transferred in due course. It hardly needs to be stated as to what all difficulties the public service of banking would suffer when employees defy transfer orders with intent to cling on to the same place. In *Gujarat Electricity Board v. Atmaram Sungomal Poshani*⁶, it has been observed as under:-

"Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the another is an incident of service. No Government servant or employee of public undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration."

No case of exception is made out either, with reference to *Addisons Paints & Chemicals and Gujarat Electricity Board supra*. Added, once an inquiry is properly held with due participation of the delinquent, what punishment is to be awarded for the proven guilt lies in the domain of the Disciplinary Authority/Employer, and a Writ Court, subject to all just exceptions, ordinarily should loathe to interfere. No exceptional case is demonstrated before us. Not

⁵. Margaret Chase Smith with Willaim C. Lewis Jr., Declaration of Conscience (1972), Doubleday Publication.

⁶. AIR 1989 SC 1433.



complying with transfer order would create lot many difficulties in banking service, which is of all India nature. After all, the Bank has only issued an order of removal simpliciter as contradistinguished from dismissal. Thus, it is non-stigmatic, that does not merit a deeper examination at the hands of Writ Court, sitting in Appeal.

In the above circumstances, Appeal being devoid of merit is liable to be dismissed and accordingly it is, costs having been made easy.

This Court places on record its deep appreciation for the able Research and Assistance rendered by its official Law Clerk-cum-Research Assistant Mr. Mohammed Nihad Sharief.

Web copy of judgment to be acted upon by all concerned.

(Krishna S. Dixit)
Judge

(Chittaranjan Dash)
Judge