

CASE NO.:
Appeal (civil) 6951 of 2005

PETITIONER:
Shiv Kumar Sharma

RESPONDENT:
D.G.M., Central Bank of India and Ors.

DATE OF JUDGMENT: 18/11/2005

BENCH:
ARUN KUMAR & G.P. MATHUR

JUDGMENT:
J U D G M E N T
(Arising out of S.L.P(C) No.15343 of 2005)

ARUN KUMAR, J

By order dated 18th November, 2005 this court allowed the above appeal and remanded the matter to the High Court for decision of the Writ Petition filed by the appellant in the High Court on merits. We hereby give reasons for the aforesaid order.

The appellant was appointed as a Clerk in the Central Bank of India on 12th May, 1981. He was placed under suspension in view of a criminal case registered against him. Simultaneously a departmental enquiry was held against the appellant. Enquiry report went against the appellant and a show cause notice dated 19th December, 1997 was issued proposing the punishment of discharge from service. On 9th February, 1998 order was issued confirming the punishment as proposed in the show cause notice. The departmental remedies pursued by the appellant against the said action failed. Ultimately the appellant filed a Writ Petition in the High Court on 24th May, 2003 challenging the said action against him. The said Writ Petition was dismissed on the ground of availability of alternative remedy vide impugned order dated 2nd September, 2004. The present appeal is directed against the said order. We have perused the impugned order of the High Court. Although on the question of availability of alternative remedy the view of the High Court cannot be faulted, yet in the circumstances of the present case, specially when such a long time has elapsed since the action of suspension and thereafter discharge from service was taken against the appellant, we feel that the appellant ought not to have been non-suited on the ground of availability of alternative remedy. It is settled law that availability of alternative remedy is not an absolute bar to exercise of jurisdiction under Article 226 of the Constitution by High Courts. The long lapse of time since the appellant has been out of job persuades us not to drive him to another round of litigation under the Industrial Disputes Act, 1947. Interest of justice in the present case demands that the Writ Petition filed by the appellant before the High Court be disposed of on merits. Accordingly we direct the High Court to finally dispose of the Writ Petition on merits in accordance with law. The impugned judgment of the High Court is accordingly set aside.