

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.687/2008**

% **Date of decision : 19.02.2008**

# Shri H.S. Lamba ..... Petitioner  
! Through: Mr.V.P.S. Tyagi & Mr.Amit  
Kumar, Advocates.

Versus

\$ The Punjab & Sind Bank & Ors. .... Respondents  
^ Through : Ms.Kittu Bajaj, Advocate.

**CORAM :-**

\* **HON'BLE MR. JUSTICE ANIL KUMAR**

- |                                                                          |     |
|--------------------------------------------------------------------------|-----|
| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not?                                | NO  |
| 3. Whether the judgment should be reported in the Digest?                | NO  |

**ANIL KUMAR, J.**

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The petitioner has impugned the order dated 30<sup>th</sup> December, 2005 of the Disciplinary Authority awarding reduction of two increments to a lower stage in the time scale of pay and refund of entire amount of housing loan in five years in 60 equal monthly installments to be deducted from his salary and the order dated 17<sup>th</sup> August, 2007 of the Appellate Authority dismissing the appeal.

The petitioner, an employee of the respondent, was sanctioned

housing loan of Rs.1.50 lakh on 3<sup>rd</sup> June, 1991 and further Rs.1.50 lakh on 31<sup>st</sup> August, 1998 for construction of a house.

The petitioner did not take the possession of the plot and did not carry out any construction on the portion of the plot allegedly purchased by the petitioner. There was also a dispute of about Rs.40,000/- which was not paid to the seller. The petitioner was also charged with giving false information by letter dated 27<sup>th</sup> May, 1998.

After the charge sheet was issued to the petitioner and after giving due opportunity, the Inquiry Officer found that the charges against the petitioner were proved. The Disciplinary Authority also agreed with the finding of the Inquiry Officer except regarding possession of the plot.

The Disciplinary Authority had held that the possession of the plot was never taken by the petitioner from Smt.Lakshmi Devi who had filed a suit against Shri H.S. Lamba, petitioner.

Learned counsel for the petitioner admitted that no construction was carried out by the petitioner as two rooms already constructed were handed over to the petitioner which were later on demolished by the seller. The petitioner is unable to show any evidence which has not been considered by the Inquiry Officer or Disciplinary Authority which will make the inferences drawn by them perverse or will reflect manifest error in the findings. Learned counsel

for the petitioner is unable to disclose whether any stay was granted against any construction to be carried out by the petitioner on account of pendency of the suit filed by the seller on a portion of the plot which was sold to the petitioner. Learned counsel for the petitioner is also unable to point out that after taking loan the petitioner had intimated to the respondent Bank that construction cannot be carried out by the petitioner on account of pendency of the dispute with the purchaser, before the issuance of show cause notice to the petitioner.

In the circumstances, there are no such findings which can be termed as perverse or suffers from manifest error. There is no denial of principle of natural justice in conducting the inquiry against the petitioner and awarding the punishment of reduction of two increments to a lower stage in the time scale of pay. The Appellate Authority has also held that the petitioner has mis-utilized the housing loan and the penalty awarded commensurate with the misconduct of the petitioner and no grounds were found by the Appellate Authority to interfere with the decision of the Disciplinary Authority.

It is a settled position of law that in exercise of jurisdiction under Article 226 of the Constitution of India, the Court should not interfere with factual findings of the lower courts and should restrain itself from re-appreciating evidence while exercising powers of judicial

review. Reliance for this proposition can be placed on the judgment of the Supreme Court, *Government of A.P. and Ors. v. Mohd. Nasrullah Khan* reported as (2006) 2 SCC 373. Writ court should refrain from interfering with the orders of an inferior tribunal or subordinate court unless it suffers from an error of jurisdiction or from a breach of the principles of natural justice or is vitiated by a manifest or apparent error of law. The objective of judicial review is that a person receives a fair treatment and objective is not to re-appreciate the entire pleas and evidence and draw inferences again. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court.

In the facts and circumstances, the learned counsel for the petitioner is also unable to point out any perversity or manifest error or denial of principle of natural justice which will entail interference by this Court under Article 226 of the Constitution of India.

The writ petition is, therefore, without any merit and it is dismissed.

February 19, 2008  
'Dev'

**ANIL KUMAR, J.**