

**\* HIGH COURT OF DELHI : NEW DELHI**

**Judgment reserved on: 17 July, 2009**

**Judgment pronounced on: 23 July, 2009**

**+ W.P. (C ) No. 13388 of 2005**

% M.S. Gupta ..... Petitioner  
Through: Mr. L. K. Garg, Advocate  
versus

State Bank of India and Others  
.....Respondents  
Through: Mr. Rajiv Kapur, Advocate

**CORAM:  
HON'BLE MR. JUSTICE SUNIL GAUR**

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

**SUNIL GAUR, J.**

(1) Petitioner – M.S. Gupta was the Branch Manager of State Bank of India in Uttar Pradesh (herein after referred to as the ‘respondent Bank’) from June, 1995 to November, 1998. Vide Annexure P-1, disciplinary proceedings were initiated against the petitioner in October, 2001 regarding false TA bills and other

irregularities. The petitioner had submitted his explanation, Annexure P-2. Statement of imputation of misconduct in respect of Articles of Charges, Annexure P-3, was served upon the petitioner and the inquiry proceedings commenced. Vide Inquiry Report, Annexure P-6, charge Nos. 1 to 4, for claiming fictitious travelling expenses during the period from June, 1995 till November, 1998, stood proved against the petitioner, whereas charge No. 5-A to 5-C stood partly proved against the petitioner regarding taxi bills claimed by the petitioner during the year 1998. The Appointing Authority, vide Order of 28<sup>th</sup> June, 2003, had imposed the penalty of "*removal from service*" upon the petitioner in terms of Rules 67(i) of State Bank of India, Officer's Service Rules.

(2) Statutory appeal against the aforesaid order of "*removal from service*" was preferred by the petitioner but the petitioner could not succeed in appeal and vide order of 5<sup>th</sup> March, 2004, his appeal was dismissed by the Appellate Authority. The aforesaid order of the Appellate Authority was challenged by the petitioner by filing a writ petition in the High Court of Allahabad, which was dismissed vide order Annexure P-9. Against

the order of dismissal of the writ, the petitioner had preferred Special Leave Petition before the Apex Court which was dismissed vide order, Annexure-10.

(3) Now what is impugned in the present writ petition is Order, Annexure P-12, vide which petitioner's review petition has been dismissed by the Review Committee of the respondents. Quashing of the order, Annexure P-12, dismissing the review petition is assailed in this petition on the ground that the order of the Appellate Authority of 5<sup>th</sup> March, 2004, was sought to be reviewed on 5<sup>th</sup> June, 2004, by filing a review petition, Annexure P-11, and the same was dismissed vide impugned order, Annexure-12, on 25<sup>th</sup> January, 2005. According to the petitioner, the penalty imposed is inequitable and disproportionate as the alleged pecuniary loss to the respondent Bank is negligible. Regarding the territorial jurisdiction, it is stated by the petitioner that the decision to initiate the departmental proceedings against the petitioner was taken at Delhi, the departmental proceedings took place at Delhi, punishment of "*removal from service*" was also imposed at Delhi and the Appellate Authority had also dismissed petitioner's appeal at Delhi.

(4) Respondents in the counter affidavit have taken preliminary objection regarding the territorial jurisdiction as well as about the present petition being barred by *res judicata*. On merits, the imposition of penalty of “*removal from service*” is sought to be justified by asserting that adequacy of evidence is not required to be gone into in the review proceedings. According to the respondents, Review Committee after perusing the record, has passed the impugned order which is well reasoned and the impugned order does not suffer from any infirmity.

(5) Counsel for the parties have been heard and with their assistance, record of this case has been perused.

(6) Learned counsel for the petitioner confines his challenge in this petition to the penalty imposed and submits that the penalty of “*removal from service*” imposed upon the petitioner is quite disproportionate. It is pointed out that the loss caused to the respondents in matter of claiming the TA bills was just Rupees eight hundred only and the petitioner has already put in twenty nine years of service and, therefore, instead of major penalty, a minor penalty ought to have been imposed upon the petitioner. On behalf of the

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petitioner, reliance has been placed upon the decisions reported in JT 2004 (Supl. 1) SC 475; JT 1995 (5) SC 474; JT 2000 (9) SC 110 and JT 2001 (5) SC 338 to contend that even after the dismissal of the Special Leave Petition of the petitioner in *limine* by the Apex Court, still review of the decision of the High Court was maintainable as the doctrine of merger did not apply. As regards the territorial jurisdiction is concerned, it has been urged on behalf of the petitioner that since part of cause of action arises within the jurisdiction of this court, therefore, this petition is maintainable.

(7) Learned counsel for the respondents assert that the review petition itself is rendered infructuous after dismissal of Special Leave Petition by the Apex Court and infact the impugned order passed by the Reviewing Authority is reasoned one. Reliance has been placed upon decisions reported in 1992 Suppl. 2 SCC 312; (2003) 4 SCC 376 and 1995 (5) SCC 762 to contend that judicial review cannot be extended to examine the correctness or reasonableness of the decision and the decision of the Appellate/ Review Authority cannot be substituted by the court and the judicial review is limited to see if there was any deficiency in the

decision making process and the departmental proceedings are not to be interfered with except in case of being *malafide* or perverse.

(8) Reliance has also been placed upon the decisions reported in 2008 (1) SCC 115; (2006) 7 SCC 212 and (2005) 1 SCC 13 by the respondents to contend that that punishment of “*removal/ dismissal from service*” is an appropriate punishment for an employee who is found guilty of misappropriation of funds and the financial loss actually occurred, cannot be a yard stick to judge the misconduct of the bank employee.

(9) I am of the considered view that since the impugned order, Annexure P-12, has been passed by respondent No.2, who is stationed at Delhi, therefore, it was open to the petitioner to challenge the same before this Court in the present proceedings. However, I find that the limited challenge made in this petition to the proportionality of the punishment imposed on the petitioner has been already considered by the High Court of Allahabad in its order, Annexure P-9, in the following words:-

*“In view of the above, as the Department has taken a very lenient view imposing*

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*punishment of removal only, we see no cogent reason to interfere in the matter. Petition is accordingly dismissed.”*

(10) This very aspect of proportionality of punishment has been also been dealt with, by the Reviewing Authority in the impugned order, Annexure P-12, in the following words:-

*“The Committee on an independent application of mind is of the view that the penalty imposed on Shri Gupta is commensurate to the grave nature of lapses. The review petition is rejected as without merit. The Committee orders accordingly.*

(11) Rule 24(12) of State Bank of India, Officer's Service Rules, reads as under:-

*“An officer making a false claim or furnishing any false information shall be guilty of misconduct and shall render himself liable to disciplinary action and consequent punishment including dismissal.”*

(12) This Court is of the considered view that there should be no interference with the administrative decisions unless they are shown to be illogical or said to

be suffering from procedural impropriety or it shocks the conscious of the court in the sense that they defeat logic. A Bank Manager, like the petitioner, is required to adopt high standards of integrity. Petitioner has failed to point out any perversity in the impugned order of the Reviewing Authority. Instead of dismissal, the order of *"removal from service"* has been imposed upon the petitioner, which permits the petitioner to draw the pension, as claimed by petitioner's counsel. The punishment imposed upon the petitioner cannot be said to be disproportionate to the misconduct committed by the petitioner.

(13) In view of the aforesaid, I am of the considered view that the impugned order does not suffer from any arbitrariness or irregularity. This petition lacks substance and is hereby dismissed.

(14) No costs.

(15) With the aforesaid, this petition and pending application, if any, stands disposed of.

**Sunil Gaur, J.**

July 23, 2009  
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