

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

+ **W.P.(C) No.338/2015**

% **13th January, 2015**

SH. VANESH GULATIPetitioner
Through: Mr. Amit Sharma, Advocate.

VERSUS

STATE BANK OF INDIA AND ANR. Respondents
Through: Mr. S. L. Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

C.M. No.531/2015 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

+ W.P.(C) No.338/2015

2. This writ petition filed under Article 226 of the Constitution of India is an abuse of the process of the law because petitioner after an unsuccessful challenge in W.P.(C) No.3768/2014 to the orders passed by the disciplinary authority and the appellate authority; dated 2.9.2013 and

10.1.2014 respectively; has filed this writ petition again impugning the selfsame orders dated 2.9.2013 and 10.1.2014. The order dated 29.10.2014 passed in W.P.(C) No.3768/2014 titled as ***Vanesh Gulati Vs. State Bank of India and Anr.*** reads as under:-

“1. The petitioner has filed the present petition prayer *inter alia* for quashing/setting aside the order dated 02.09.2013 passed by the Disciplinary Authority deciding to impose upon him a penalty of dismissal without notice and further forfeiting the gratuity payable to him under the Payment of Gratuity Act. The petitioner also assails the order dated 10.01.2014 passed by the Appellate Authority, dismissing his appeal and upholding the order passed by the Disciplinary Authority.

2. Learned counsel for the petitioner submits that the petitioner does not wish to assail the impugned orders dated 02.09.2013 and 10.01.2014 passed by the Disciplinary Authority and the Appellate Authority respectively and instead, seeks leave to withdraw the present petition while reserving the right of the petitioner to file an appropriate proceeding seeking directions to the respondents/Bank to release the retiral dues payable to him in accordance with law.

3. Leave, as prayed for, is granted. The petition is dismissed as withdrawn.”

3. A reading of this order makes it more than abundantly clear that the petitioner cannot once again challenge the impugned orders dated 2.9.2013 and 10.1.2014 which have become final on account of his withdrawing of the earlier writ petition when a limited liberty was granted only to claim retiral dues in accordance with law.

4. Since the petitioner is dismissed from service, petitioner cannot get any gratuity or provident fund as per the rules, and it is for this reason that the petitioner has not cited any rule/rules of the employer organization/respondent no.1 which provides that a dismissed employee is entitled to gratuity and provident fund. In fact, the dismissal order specifically states that gratuity of the petitioner will be forfeited.

5. Learned counsel for the respondents states that any dues which are payable in law have already been paid to the petitioner or in any case will be paid to the petitioner in accordance with law taking the dismissal order of the petitioner from service as final.

6. Dismissed.

JANUARY 13, 2015
Ne

VALMIKI J. MEHTA, J