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

+ LPA 262/2015 and CM Nos. 7986-7987/2015

VIJAYA BANK

..... Appellant

Through: Mr Rajat Arora, Adv.

versus

N M JAIN

..... Respondent

Through: Mr Ashok Bhalla, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **23.03.2016**

The appeal is directed against an order of the learned Single Judge, whereby the dismissal order dated 12.10.1999, issued against the writ petitioner, was quashed. The learned Single Judge noticed that *inter alia* the Enquiry Officer had even while observing that charges were proved stated that the conduct of the respondent/officer had not led to any financial loss to the bank. The Disciplinary Authority, however, returned a finding that in fact there were financial losses.

Counsel for the appellant had relied upon the judgment of the Supreme Court in *Disciplinary Authority-cum-Regional Manager and Ors. vs. Nikunja Bihari Patnaik* (1996) 9 SCC 69 and contended that even though there might be loss, in a given case, behaviour which leads to exploiting one's authority is a culpable conduct, the punishment of which should not be interfered with. This Court has

taken note of the circumstances after hearing counsel for the parties. The learned Single Judge noted that the order of the Disciplinary Authority took into consideration not just the findings of Enquiry Officer, but other material. The learned Single Judge did not give blanket relief instead the dismissal order was set aside and the appellant-bank was granted liberty to pass a fresh order on the basis of Enquiry Report after giving opportunity of hearing to the writ petitioner/respondent.

We find no reason to interfere with this order. The bank/appellant is, however, at liberty to also make consequential orders as to the manner in which the period between 12.10.1999 and the date on which the respondent superannuated is to be treated in accordance with the service and pension rules.

The appeal is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 23, 2016\bg