

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4275 OF 2016

Suresh Trimbakrao Deshpande,
Age : 65 years, Occupation: Retired,
R/o Opp. Jalnapurkar's House Signal Camp,
Latur. ...Petitioner

Versus

- 1) Union of India
Through A.S.G.I.
High Court of Judicature at Bombay,
Bench at aurangabad.
- 2) I.D.B.I. Bank Ltd.
Through It's General Manager
Human Resources Departmental
I.D.B.I. Tower W.T.C. Compld,
Cuffe Parade, Mumbai 400 005.
- 3) Appellate Authority
I.D.B.I. Bank Ltd.
Registered Office
I.D.B.I. Tower W.T.C. Complex,
Cuffe Parade, Mumbai 400 005.
- 4) Executive Director H.R. and
Competent Authority
I.D.B.I. Bank Ltd.
Registered Office
I.D.B.I. Tower W.T.C. Complex,
Cuffe Parade, Mumbai 400 005.
- 5) Branch Manager,
I.D.B.I. Bank Ltd.,
Kamdar Road, Latur. ...Respondents

Mr. R. P. Adgaonkar, Advocate for petitioner
Mr. S. V. Advant, Advocate for respondents No.2 to 5.

**CORAM : S. V. GANGAPURWALA &
SMT. VIBHA KANKANWADI. JJ.**

DATE : 31-10-2017

PER COURT :

1. Mr. R. P. Adgaonkar, the learned counsel for the petitioner submits that, the petitioner is held guilty of misappropriation and negligence in departmental enquiry. The punishment is imposed by the disciplinary authority to the effect of deduction of 27 % of pension amount. The appeal filed by the petitioner is also dismissed.

2. The learned counsel submits that, the petitioner is held guilty of misappropriation on the ground that the shortage of cash to the extent of Rs.5,00,000/- is noticed. The learned counsel submits that, the theft by third persons has been detected and a complaint is lodged. According to the learned counsel even cash of Rs.38,000/- is recovered. The recovery of the cash amount from the culprits itself would show that it is not the case of misappropriation. The bank is not prosecuting the criminal case nor taking any steps. It is only after the insurance is rejected, the disciplinary proceeding are initiated. No proof of misappropriation is on record. The whole service of the petitioner is unblemished. According to the learned counsel, at the fag

end of his career, the petitioner is being victimized. Learned counsel submits that, when theft has been committed, the charge of misappropriation would not survive. This aspect has not been considered. Even the punishment imposed is shockingly disproportionate. The charge of misappropriation and negligence also would not go hand in hand.

3. Mr. S. V. Adwant, the learned counsel submits that, the criminal case at Latur is closed, no recovery is made from the culprits and in the enquiry even the offenders were not found. The bank had all the time supported the petitioner. No over payment or short payment to the customers was ever noticed. The petitioner was in-charge of the said cash. On account of unexplained shortage of Rs.5,00,000/-, the petitioner is held guilty of misappropriation. The punishment is imposed only to the effect of recovery of the amount.

4. We have considered the submissions. This court in its writ jurisdiction of Article 226 of Constitution of India would have limited jurisdiction. In the matters arising out of departmental enquiry, the jurisdiction is limited to the extent of due adherence to the procedure being followed in the departmental enquiry. This court would exercise its jurisdiction only if it is found that due procedure in the

departmental enquiry was not followed or the same was vitiated due to non adherence to principles of natural justice or on account of perversity.

5. In the present matter we do not find any transgression of principles of natural justice or that due procedure is not followed.

6. The enquiry officer in his report considered the evidence of witnesses, they stated that the recovery from the alleged culprits was by coercion and force, the criminal case lodged against the culprit at Latur is closed, as no muddemal property is ever recovered.

7. In that case the shortage of Rs.5,00,000/- is unexplained. The petitioner was in-charge of the cash is undisputed. The only punishment imposed upon the petitioner is with regard to the recovery of amount that is the deduction of 27 % of the pension amount. We do not find the said punishment to be disproportionate.

8. Considering the above we do not find any case for interference.

9. Writ petition accordingly disposed of as above.

[SMT. VIBHA KANKANWADI]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

vjg/-.