

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

Date of Decision: November 08, 2017

+ W.P.(C) 7209/2016

SHYAM KISHORE

..... Petitioner

Through: Mr. Aman Preet Singh, Advocate

Versus

INDIAN OVERSEAS BANK AND ORS.

..... Respondents

Through: Ms. Mayuri Raghuvanshi &
Mr. Vyom Raghuvanshi, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

C.M. 18852/2017 (u/S 151 CPC)

By way of this application, petitioner seeks to amend the petition to incorporate additional grounds.

Upon hearing, I find that the amendments sought are necessary for effective decision of the case. Hence, the application is allowed. Amended petition filed along with this application is taken on record.

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1. Consequent upon departmental inquiry regarding petitioner habitually crediting lesser amount in the account of *M/s Jaina Saree Centre*, punishment of *dismissal from service* was inflicted upon petitioner vide order of 29th April, 2015 (*Annexure P-4*). Petitioner's

appeal of 15th August, 2015 (*Annexure P-6*) was confined to proportionality of punishment imposed.

2. Petitioner in this petition claims that penalty of dismissal be converted into compulsory retirement, so that petitioner is able to get the pension benefits, as he has unblemished service of 35 years to his credit. Counsel for petitioner submits that penalty of *dismissal from service* does not commensurate with the misconduct and in the facts of instant case, it needs to be substituted with compulsory retirement. In support of petitioner's case, reliance is placed upon decisions in *Regional Manager U.P. SRTC, Etawah & Ors. Vs. Hoti Lal & Anr.* (2003) 3 SCC 605; *Damoh Panna Sagar Rural Regional Bank & Anr. Vs. Munnal Lal Jain* (2005) 10 SCC 84 and *Bank of Baroda Vs. S.K. Pool (dead) through legal representatives & Anr.* (2014) 2 SCC 715.

3. To say the least, the aspect of punishment imposed being commensurate with the misconduct, has not been considered in the order of 8th September, 2015 (*Annexure P-7*) by respondents. In view thereof, impugned order of 8th September, 2015 (*Annexure P-7*) is set aside and respondents are directed to decide petitioner's appeal of 15th August, 2015 (*Annexure P-6*) afresh, while considering petitioner's background, the proportionality of punishment imposed in the light of Bipartite Settlement of 10th April, 2002 as well decisions in *Regional Manager U.P. SRTC (supra)*; *Damoh Panna Sagar Rural Regional Bank (supra)* & *Bank of Baroda (supra)*. It is made clear that respondents shall pass a speaking order within two weeks on petitioner's appeal of 15th August, 2015 (*Annexure P-6*), uninfluenced by order of 8th September, 2015 (*Annexure P-7*) and subject matter of consideration would not be merits

of the case but the proportionality aspect only. The fate of petitioner's appeal be conveyed to petitioner within a week thereafter, so that petitioner may avail of the remedy, as available in law, if need be.

4. With aforesaid directions, this petition is disposed of.

SUNIL GAUR
(JUDGE)

NOVEMBER 08, 2017

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