

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION (ST) NO. 22975 OF 2018**

Mr. S. S. Sahoo

.....Petitioner

V/s.

Union of India Through the Secretary and othersRespondents

Mr. Ramesh Ramamurthy i/b Mr. Saikumar Ramamurthy for the
Petitioner

Mr. S. D. Kelkar a/w Mr. O. S. Kelkar for Respondent no. 4

Mr. A. A. Garge for Respondent nos. 1 to 3

Mr. B. V. Samant AGP for Respondent State

Mr. D. K. Varma I/c Registrar, DRT Pune

Mr. P. W. Gorakh I/c Registrar DRAT Mumbai

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.****DATE : 31st OCTOBER, 2018.****P.C.**

The above Writ Petition has been filed for a declaration that the inaction on the part of Debt Recovery Tribunal ('DRT' for short) Pune and the Debt Recovery Appellate Tribunal ('DRAT' for short) Mumbai in not completing APAR's (Appraisal Reports) of the Petitioner for the years 2015-2016, 2016-2017 and 2017-2018 is bad in law and a

further directions is sought that the DRT/DRAT have no further right to make any entries in the APAR's for the said three years. A direction is also sought that the DRT & DRAT be directed to forward the APAR's of the Petitioner for the years 2015 to 2018 to the Respondent-Bank without making any further entries in the APAR's for the said three years.

2 The said reliefs are sought in the background of the fact that the Petitioner who was at the relevant time working with the IDBI Bank as a Manager and thereafter was promoted as Assistant General Manager was sent on deputation on 04/12/2014 to the DRT on his selection. Suffice it would be to state that the Petitioner sought his premature repatriation to his original employer i.e. IDBI Bank. The Petitioner's case is to be considered for promotion to the post of Deputy General Manager in the IDBI Limited. As indicated above, it is in the context of the aforesaid facts that the relief which we have adverted to in the earlier part of this order has been sought.

3 On behalf of the DRT Pune, an affidavit has been filed by one

Dineshkumar Verma, I/c. Registrar of the said Tribunal. The sum and substance of the said affidavit is that the appraisal reports of the Petitioner were forwarded to the DRAT for review on the dates mentioned in the said affidavit. Hence, insofar as the DRT, Pune is concerned where the Petitioner was working as Assistant Registrar, the appraisal reports have been forwarded by the DRT to DRAT for review. Insofar as the DRAT is concerned, which is the Reviewing Authority, the Registrar of the DRAT Mr. P. W. Gorakh I/c. Registrar is personally present in the Court. On his instructions, the learned counsel Mr. Garge, states that in the fire which took place in the premises of the DRAT, the appraisal reports for the year 2015-2016 and 2017-2018 are not traceable, however, appraisal reports for the year 2016-2017 are with the DRAT.

4 Insofar as the appraisal reports are concerned, the Department of Personal and Training, Government of India has issued the Office Memorandum dated 16/02/2009 governing the issue of preparation and maintenance of the ACR's. We need not refer to the said Office Memorandum in detail for the present.

5 The learned counsel appearing on behalf of the Petitioner, Mr. Ramamurthy relies upon Clause 3 & 4 of the said Office Memorandum to submit that the DRAT is required to take action in terms of the said clauses of the Memorandum by forwarding “No Report Certificate” to the IDBI.

6 We are not in agreement with the said submission of the learned counsel for the Petitioner as indicated herein above. It is the case of the DRT as stated in the affidavit filed by its In-charge Registrar that the appraisal reports for all the three years were forwarded to the DRAT and at DRAT's end, the reports except report of the year 2016-2017 are not traceable. Once that be so, it would be proper for the DRT to once again forward the reports for the year 2015-2016 and 2017-2018 to the DRAT for review as also for the DRAT to take a review of the report of the year 2016-2017 which appraisal report is admittedly in its possession. On the appraisal reports being forwarded by the DRT to DRAT, it is for the DRAT to carry out the review of all the three reports, if not already carried out

and communicate the same to the Petitioner expeditiously. We make it clear that we have not gone into the aspect as to what effect such delayed communication would have on the right of the Petitioner to the higher post. We keep the said aspect open for being urged at the appropriate time in appropriate proceedings. However, we expect the aforesaid exercise to be carried out by both DRT and DRAT expeditiously and not later than 8 weeks from date. After this process is completed as above, the APAR's of the Petitioner be forwarded to IDBI Bank, forthwith.

7 With the directions as aforesaid, the Writ Petition is disposed of.

8 Parties to act on a copy of this order, duly authenticated.

[NITIN W. SAMBRE, J.]

[R. M. SAVANT, J.]