IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1575 OF 2016

Anand Bhaurao Meshram (since deceased through L.Rs.) Smt. Ashmita Anand Meshram & Ors. … Petitioners

Versus

Union of India & Ors. … Respondents

Mr. Indra B. Singh for Petitioners.
Mrs. S. I. Shah a/w Mr. Mohamedali M. Chunawala for Respondent No.1.
Mrs. S. I. Shah for Respondent No.2.

CORAM : R. M. SAVANT AND NITIN W. SAMBRE, JJ.

DATE : 2nd NOVEMBER 2018.

P.C.

. The above Writ Petition has been filed challenging the order dated 16th July 2014 passed by the Respondent No.3, by which order the original Petitioner was visited with the punishment of removal from service. The said order has been confirmed by the Appellate Authority by the order dated 13th November 2014 (Exhibit – G to the above Petition). At the relevant time, the original Petitioner was working as a Manager in the Regional Office of the Respondent – Bank at Mumbai. The original

Petitioner was chargesheeted and the charge levelled against the original Petitioner was to the following effect.

> *"**Charge***
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> *Shri Anand Meshram while working at Regional Office Mumbai (South) had molested a woman on 15-01-2013 and was taken into police custody for this offence. Due to his above acts the image of the Bank is tarnished. Shri Anand Meshram allegedly did not maintain good conduct. He failed to protect the interest of the Bank by showing discourtesy to a person intending to deal with the Bank and thus committed an offence which is unbecoming of an officer employee"*

3. It was therefore alleged against the original Petitioner that he has committed a misconduct under Regulation 3(1) and 3(2) of the Oriental Bank of Commerce Officer Employees (Conduct) Regulations, 1982. An enquiry was conducted against him. The original Petitioner was given adequate opportunity to defend himself in the said enquiry. The enquiry Officer on the basis of the material on record held the charge to be proved and accordingly submitted a report to the Disciplinary Authority.

4. The Disciplinary Authority vide its order dated 16th July 2014 after following due procedure, imposed the punishment for "removal from service which shall not be disqualification for future employment". The Petitioner thereafter had filed an Appeal as is available under the

Regulations. The Appellate Authority considered the findings of the Enquiry Officer as also the orders passed by the Disciplinary Authority and did not find any reason to interfere with the punishment imposed by the Disciplinary Authority and accordingly dismissed the Appeal by order dated 13th November 2014.

5. The Appellate Authority as can be seen from the impugned order has exhaustively dealt with enquiry report and submissions made on behalf of the original Petitioner before it and has accordingly recorded findings in respect of the said submissions. Though the order passed by the Appellate Authority is not under challenge in the above Petition, we have referred to it with a view to complete the narration of facts.

6. The original Petitioner has expired on 14th April 2018 and his heirs have been brought on record. The heirs are seeking the relief that they should not be evicted from the official quarter until they receive retiral dues of the original Petitioner. The heirs are incidentally claiming the said retiral dues in the above Writ Petition. We had adjourned the above Petition till today so as to enable the Petitioners to file an undertaking to this Court that they would handover the possession after Diwali i.e. by 14th November 2018, as that is the prayer which was made to us by the learned Counsel for the Petitioner Mr. Singh at the relevant time. However, though

an undertaking has been tendered across the bar by the learned Counsel for the Petitioners, reading of the said undertaking discloses that vacating and handing over possession of the service quarters is sought to be made contingent upon the payment of the retiral dues to the heirs. We will deal with the said aspect a little bit later.

7. Insofar as the order of punishment is concerned, as can be seen from the charge which was levelled against the original Petitioner in the departmental proceedings the same was of a serious nature affecting the reputation of the Respondent – Bank. The said charge has been looked into by the Enquiry Officer who has taken into consideration the relevant documents including the FIR which was lodged with the police and it is thereafter that the Enquiry Officer came to a conclusion that the charge was held proved against the Petitioner. In Appeal the Appellate Authority as indicated above went into some detail and ultimately came to a conclusion that the order passed by the Disciplinary Authority did not merit any interference. It is trite that insofar as departmental proceedings are concerned, the standard of proof is of preponderance of probabilities and therefore there has to be some evidence on record to bring home the charge.

8. In the facts of the present case, we are of the view that the said requirement can be said to have been satisfied. In our view, therefore, no interference is called for *qua* the order passed by the Disciplinary Authority dated 16th July 2014 as confirmed by the order passed by the Appellate Authority dated 13th November 2014.

9. Now coming to the aspect of whether the heirs of the original Petitioner who was an employee of the Respondent – Bank can be allowed to continue to occupy the official quarter. It is required to be noted that the order of removal from service has been passed against the original Petitioner as long back as in the year 2014. The original Petitioner along with the family members continue to occupy the same. The original Petitioner has expired on 14th April 2018 and thereafter the heirs are in occupation of the premises. Once the contract of service has come to an end, then the employee or his heirs cannot be allowed to continue to occupy the accommodation provided by the employer i.e. beyond what is provided in the Service Rules.

10. In the instant case, the contract of service has come to an end in view of the oder passed of removal from service and not on account of retirement or superannuation. In our view, therefore, the heirs of the original employee cannot be permitted to occupy the premises endlessly as

is sought to be claimed by them in the undertaking which was tendered by the learned Counsel appearing for the Petitioners.

11. The heirs of the original Petitioner would be allowed to occupy the premises until 30th November 2018, so that they can make an alternate arrangements. If they do not vacate the premises by 30th November 2018, then the Respondent – Bank would be entitled to evict them by following due process of law.

12. Insofar as the retiral dues are concerned, the Respondent – Bank is directed to pay whatever retirement dues the Petitioners would be entitled to as per rules, having regard to the fact that an order of removal from service has been passed against him within 8 weeks from date. As regards recovery of penal rent we express opinion in that regard and the Respondent – Bank would proceed in terms of its rules and regulations.

13. Save and except the directions as above that we are required to issue, there is no merit in the above Writ Petition which is accordingly dismissed.

(NITIN W. SAMBRE, J.) **(R. M. SAVANT, J.)**