

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.8.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A.No.1562 of 2016
and
C.M.P.No.19339 of 2016

1. State Bank of India, rep. by its
Managing Director,
P.B.No.9727, Kempegowda Road,
Bangalore.
 2. Chief General Manager,
State Bank of India,
P.B.No.9727, Kempegowda Road,
Bangalore.
 3. General Manager (Operations)
State Bank of India,
P.B.No.9727, Kempegowda Road,
Bangalore.
(Appellants 1 to 3 substituted vide order
dated 9.8.2017 made in
C.M.P.No.13319 of 2017)
- Appellants

Versus

L.Kumar

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.8.2016 passed in W.P.No.27016 of 2008 on the file of this court.

W.P.No.27016/08 dated : 10/08/2016

Petition filed under Article 226 of the Constitution of India, Praying for issuance of a writ of Certiorari mandamus calling for the order of the 3rd respondent in DPD/1019 dated 09/07/03 the order of the 2nd respondent in DPD/971/c/1121 dated 18/8/2004 the order of the first respondent in DPD/C1121/2034 dated 09/02/05 and the Subsequent order of the 2nd respondent in DPD/c1121 dated 22/04/2005 and DPD/c1121 dated 16/07/2007 quash the same and consequently direct the respondents to fix the pay

of the petitioner herein at Rs.15,000/- as basic pay with effect hearing 09/07/2003 and further directing payment of arrears, of pay and other allowance with effect from the set date.

For appellants : Mr.S.Sethuraman

For respondent : Mr.R.Parthiban

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the Management of the Bank challenging the order passed by the learned Single Judge in reducing the punishment imposed upon the respondent herein.

3. It appears that the respondent herein, while serving as Deputy Manager, was subjected to disciplinary proceedings for the alleged misconduct involving undue pecuniary gains to the borrowers stealthily accepting forged documents and recommended loans and thereby caused loss to the Bank to the tune of Rs.85,00,000/-. It further appears that on conclusion of the enquiry, the respondent herein was imposed with a punishment of removal from service, however, on appeal by him, it was modified into one of reduction to a lower cadre i.e., JMGS-I at the minimum scale in terms of Regulation 67(5) of the State Bank of Mysore Officers' Service Regulations, 1979.

4. Contending that it is not only double punishment having impact on his pension, but also, it is a discrimination as the co-delinquent viz., the Branch Manager was imposed with a lesser punishment, the respondent herein had filed the writ petition.

5. The learned Single Judge, on the principle that there should not be any discrimination and there should be parity between the co-delinquents with regard to punishment, as has been laid down in the decision of the Supreme Court in RAJENDRA YADAV v. STATE OF MADHYA PRADESH AND OTHERS ((2013) 3 SCC 73), has further reduced the punishment and thereby upheld the punishment of reduction in cadre while setting aside the punishment of fixing the minimum time scale of pay.

6. Having heard the learned counsel appearing for the parties and perused the order passed by the learned Single Judge, we find that the respondent herein is only a Deputy Manager and some of the persons, who obtained loan by producing forged documents, have been convicted in the criminal case and if at all the respondent has got any role to defraud the Bank, it would have come out in the criminal proceedings. Further, the co-delinquent is also said to have been imposed with a lesser punishment. Therefore, we do not find any illegality in

the order passed by the learned Single Judge in reducing the punishment in the light of the decision of the Supreme Court cited supra.

7. In such view of the matter, the writ appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

ssk.

To:

1. State Bank of India, rep. by its
Managing Director,
P.B.No.9727, Kempegowda Road,
Bangalore.
2. Chief General Manager,
State Bank of India,
P.B.No.9727, Kempegowda Road,
Bangalore.
3. General Manager (Operations)
State Bank of India,
P.B.No.9727, Kempegowda Road,
Bangalore.

+1cc to Mr.R.Parthiban, Advocate SR.No.54125

+1cc to Mr.M.B.Gopalan, Advocate SR.No.54140

W.A.No.1562 of 2016

GMV (24/09/2018)

WEB COPY