IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11106 of 2014 (O&M)

Date of Decision:15.01.2018

Sudarshan Kumar Gupta ... Petitioner

Vs.

State Bank of India and others ... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Deepak Sonak, Advocate for the petitioner.

Mr. Vikas Chatrath, Advocate for respondent No.1-Bank.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged the orders passed by the disciplinary, appellate and reviewing authority.

Petitioner was subjected to disciplinary proceedings and it was concluded in imposing the penalty. Relevant portion of the penalty order reads as under:

> *"Bringing down the official to the grade of JMGS-I and fixing his salary at the minimum in the scale under Rule 67 (g) of SBIOSR along with a recovery of Rs.4 lacs out of the terminal benefits payable to the official under Rule 67 (d) SBIOSR."*

Feeling aggrieved by the order of the disciplinary authority, petitioner preferred appeal and review application. In both the appeal as well as review, petitioner suffered orders. Hence, the present petition.

Learned counsel for the petitioner submitted that various contentions raised by the petitioner before the disciplinary authority on the inquiry officer report has not been appreciated or considered while passing order of penalty on 21.06.2008. Further appellate as well as reviewing authority have also failed to consider each of the contention raised by the petitioner. Therefore, orders passed by the disciplinary, appellate and

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reviewing authorities are liable to be set aside. It was further pointed out that inquiry officer has not appreciated the relevant document in respect of ownership of property. Even such contention raised before the disciplinary authority and it was not considered before concluding the disciplinary proceedings.

Per contra, learned counsel for respondent No.1 while resisting the petitioner's claim submitted that respondent-Bank have followed State Bank of India Officers' Service Rules, 1992 (for short “1992 Rules”) from the stage of initiation of inquiry till imposition of penalty read with the orders of the appellate and reviewing authority. Therefore, there is no infirmity in the orders which are impugned in the present petition.

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether disciplinary authority while imposing the penalty has considered the plea taken by the petitioner on the inquiry officer's report or not?

Perusal of the disciplinary authority order dated 21.06.2008, it is evident that there is no consideration of the petitioner's plea on the inquiry officer's report read with the show cause notice. Para 3 and 4 of the disciplinary authority order reads as under:

> *“3. The findings of the Inquiring Authority were forwarded to the official to enable him to make submissions thereon. The Disciplinary Authority has considered the inquiry proceedings along with the relevant record in their entirety and has agreed with the findings of Inquiring Authority.*
>
> *4. I have carefully gone through the records and proceedings in the case. On an independent examination of the documents and evidences adduced during the inquiry proceedings, I concur with the reasoning and findings of the Inquiring Authority. The contents of the charges held as proved/partly*

proved can be summarized as follows:"

Issuance of show cause notice alongwith report of the inquiry officer and obtaining explanation from the delinquent shows that there is no consideration of his plea by the disciplinary authority. It is not empty formality of furnishing inquiry officer's report and seeking explanation. To that extent, there is violation of principle of natural justice. In the present case, in not considering each of the contention raised by the petitioner on the inquiry officer's report.

Accordingly, order of the disciplinary authority and consequential orders passed by the higher authorities are hereby set aside. Matter is remanded to the disciplinary authority to pass a fresh order after due consideration of each of the contentions raised by the petitioner on the inquiry officer's report. It is learnt that during pendency of this petition, petitioner has attained the age of superannuation and retired from service and there is no bar for taking action against the delinquent officer of the State Bank. Therefore, respondents were at liberty to proceed against the petitioner under Rules 1992 from the stage of receipt of the explanation on the inquiry officer's report of the petitioner. Petitioner is permitted to file additional reply, if any, within a period of one month from today. After receipt of additional reply of the petitioner, disciplinary authority is hereby directed to pass further order within a period of four months from today.

With the above observation, petition stands disposed of.

15.01.2018 **(P.B. Bajanthri)**
rajeev **Judge**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No