

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

Date of Decision: January 15, 2018

+ **W.P.(C) 1370/2013**

SATISH CHAUDHARY Petitioner

Through: Mr. Shankar Raju and Mr. Nilansh
Gaur, Advocates

Versus

BANK OF BARODA AND ANR. Respondents

Through: Mr. Bhupinder Singh Chauhan,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

1. Petitioner was Head Cashier in Currency Chest of respondent-Bank when FIR for offence of cheating, forgery etc was registered against him in March, 2003 by the Central Bureau of Investigation (CBI). Pursuant to the departmental proceedings initiated against petitioner, he has been dismissed from service vide order of 2nd December, 2005 against which an appeal was preferred by petitioner and the said appeal stands dismissed vide order of 12th July, 2006. Petitioner's Representation also stands dismissed vide order of 13th October, 2012 (*Annexure P-13*).

2. The challenge to impugned dismissal order by petitioner's counsel is on the ground that petitioner was dismissed from service but lateron, he has been acquitted in the criminal case and so, in view of Supreme Court's decision in *S. Bhaskar Reddy & Anr. Vs. Superintendent of Police & Anr.* (2015) 2 SCC 365, the disciplinary authority is required to

reconsider the order of dismissal in view of acquittal by the Criminal Court, when charges in both the proceedings are more or less similar.

3. In the counter affidavit filed by respondent-Bank, reliance has been placed upon Supreme Court's decision in *Deputy Inspector General of Police & Anr. Vs. S. Samuthiram* 2012 AIR (SCW) 6484, wherein it has been held that mere acquittal of an employee by a criminal court has no impact on the disciplinary proceedings initiated by a department. Learned counsel for respondent-Bank raises the jurisdictional issue by submitting that petitioner is a workman and he ought to be relegated to avail of the remedies by invoking provisions of *Industrial Disputes Act, 1947*.

4. It is a matter of record that when this petition was admitted, respondent- Bank was duly represented. That was the stage to relegate petitioner to avail of alternate remedy. In any case, petitioner was drawing salary of more than ₹10,000/- p.m. and was working in Supervisory capacity and so, it cannot be said that petitioner comes within the definition of a workman. In this view of the matter, it is held that petitioner cannot be relegated to avail of the remedies under the *Industrial Disputes Act, 1947*.

5. After having heard learned counsel for the parties and on perusal of material on record and the decisions cited, I find that in view of Supreme Court's decision in *S. Bhaskar Reddy (Supra)*, the disciplinary authority is under legal obligation to reconsider the penalty of dismissal from service in view of petitioner's acquittal by the Criminal Court, as the charges in both these proceedings are said to be identical. This aspect is required to be looked into by the disciplinary authority of respondent-Bank.

6. In the facts and circumstances of this case, this petition is disposed of with permission to petitioner to make a concise Representation to respondent-bank within a period of two weeks. If such a Representation is received by respondent-Bank, then it be considered by the disciplinary authority in light of Supreme Court's decision in *S. Bhaskar Reddy (Supra)* and in case, it still maintains the penalty of dismissal, then reasons for doing so be spelt out. The fate of Representation be made known to petitioner within twelve weeks, so that petitioner may avail of the remedies, as available in law, if need be. It is made clear that if permissible, petitioner may avail of the remedies before the Appellate Authority.

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

Dasti.

**SUNIL GAUR
(JUDGE)**

JANUARY 15, 2018

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