

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

Date of Order: May 04, 2018

+ **W.P.(C) 4733/2018 & CM 18171/2018**

SANTOSH KUMAR Petitioner
Through: Mr. Murari Kumar, Mr. Aman Jha
and Mr. Shivshankar, Advocates

versus

STATE BANK OF INDIA AND ANR Respondents
Through: Mr. Rajiv Kapur and Ms.
Khushboo Kapur, Advocates for respondents
No.1 & 2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In the years 2011-2013, petitioner was Branch Manager of N.C.C. Dabrai Branch, U.P. and on the charge of committing serious lapses in sanctioning of 48 housing loans with an outstanding amount of ₹4.88 crores and six Express Credit Loans with an outstanding of ₹9.08 lacs, petitioner was departmentally tried and vide impugned order of 1st March, 2016 (*Annexure P-2 colly.*), penalty of dismissal from service was inflicted upon petitioner, which was challenged by him by way of statutory appeal. Petitioner's appeal stands dismissed vide impugned order of 27th October, 2016.
2. The challenge to the orders of Disciplinary Authority as well as Appellate Authority by learned counsel for petitioner is on the ground

that petitioner had followed the Rules and Regulations and had acted upon Title Investigation Reports (for short TIRs) submitted to him and KYC compliances were ensured and that the borrowers were identified and traced and no monetary loss was caused to respondent-Bank. It is submitted that there was no diversion of funds by petitioner and the original sale agreements were not required to be taken as sale deeds were already on record and there is no evidence to the effect that petitioner had connived with Field Officer-*Devender Kumar*, borrowers or the lawyers, who had submitted the TIRs. In this regard, attention of this Court is drawn to deposition of *Lal Bahadur*, one of the customers and of *Mr. Pradeep Chandra Agrawal*, the lawyer who had prepared the TIRs. Attention of this Court is also drawn to evidence of Customer Assistant to point out that petitioner had never asked him to work on the TIRs submitted by the Field Officer-*Devender Kumar*. It is also submitted on behalf of petitioner that petitioner has an exemplary service record and the charges levelled against petitioner are not proved and so, impugned orders deserve to be set aside.

3. On the contrary, learned counsel for respondent maintains that the orders of Disciplinary Authority and Appellate Authority are speaking orders and the pleas taken by petitioner have been adequately dealt with. Thus, dismissal of the writ petition is sought.

4. In case of disciplinary actions, Supreme Court in *Union of India v. P. Gunasekaran*, (2015) 2 SCC 610 has reiterated that the High Court in exercise of writ jurisdiction shall not:

“(i) *reappreciate the evidence;*

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
(iii) go into the adequacy of the evidence;
(iv) go into the reliability of the evidence;
(v) interfere, if there be some legal evidence on which findings can be based.
(vi) correct the error of fact however grave it may appear to be;
(vii) go into the proportionality of punishment unless it shocks its conscience.”

5. After having heard both the sides and on perusal of impugned orders, material on record and the afore-noted legal position, I find that reappraisal of evidence is not required to be undertaken by this Court. In any case, I have cursorily glanced through the evidence referred to and the findings of Inquiry Officer, Disciplinary Authority as well as Appellate Authority and I find that out of 18 allegations, the serious ones are allegations No.11 and 17. Since the sale deeds were already on record, therefore, non-obtaining of sale agreements would not justify imposition of penalty of dismissal from service.

6. As regards forging of documents, such as, Title Investigation Reports, I find that the evidence on record does not clearly indicate that petitioner was party to forging of documents, etc. Though no case for interference on merits is made out, but Appellate Authority was required to consider whether penalty is adequate or excessive. Appellate order, though detailed one, does not consider the vital aspect of proportionality of the penalty inflicted. Since Rule 69 (3) of *State Bank of India Officers' Rules, 1992* permits the Reviewing Authority to call for record of the case

within six months from the date of final order and pass such orders as deemed fit, therefore, it is deemed appropriate to call upon the Reviewing Authority of respondent to consider the vital aspect of proportionality of penalty inflicted, within a period of twelve weeks by relaxing the time limit of six months by invoking Rule 69 (5) of the aforesaid Rules and to convey the fate of review to petitioner within two weeks thereafter, so that on proportionality of punishment inflicted, petitioner may agitate his case, if so required. Such a course is adopted in the peculiarity of this case and because the alleged misconduct purportedly had not resulted in any monetary loss and that the service record of petitioner is said to be exemplary.

7. With aforesaid directions, this petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MAY 04, 2018

S