

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

Date of Decision: May 03, 2018

+ **W.P.(C) 12694/2009 & CMs No. 4586/2012 & 2945/2018**

SATBIR SINGH CHADHA Petitioner
Through: Mr. Ashok Bhalla and Mr. Munish
Talwar, Advocates

versus

PUNJAB AND SIND BANK AND ORS. Respondents
Through: Mr. Rajat Arora and Mr. Niraj
Kumar, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Petitioner was a Branch Manager in Punjab and Sind Bank, Gumti No. 5, Kanpur and he alongwith G.S. Duggal who was Manager (Loans) in the same bank, was departmentally proceeded against on the charges of not obtaining Annexures I and II in terms of Circular of 4th December, 2002 from the borrower and the guarantor and had failed to ensure that before releasing the loan, trained technical staff is available at the hospital, to operate the machine and after sales service is available. More serious allegation leveled against petitioner and G.S. Duggal was of being hand-in-glove in obtaining processing fee of ₹3750/- and debiting the said amount to the loan account of the borrower on account of 3 per cent processing fee and of also obtaining the said amount in cash.

2. Consequent upon departmental inquiry, petitioner and G.S. Duggal were inflicted the penalty of dismissal from service. Statutory appeal and the review filed by petitioner and G.S.Duggal yielded no result. It is a matter of record that G.S.Duggal had challenged the penalty inflicted upon him by way of a writ petition before the Allahabad High Court and a Division Bench of the said Court, vide order of 6th February, 2012, had set aside the penalty of dismissal with direction to reinstate G.S.Duggal in service with all consequential benefits.

3. Aforesaid order was unsuccessfully challenged by respondent-Bank by way of Special Leave Petition before the Supreme Court. The Enquiry Officer in his report of 30th June, 2006 had relied upon evidence of S.S. Nayar, Sr.Manager, ZO, Lucknow and Sh.H.K.Gulati, Sr.Manager, B.O., Gumti No.5, Kanpur to conclude that the first charge of not obtaining Annexures I and II stood proved but the second charge of obtaining 3% processing fee was not proved. However, Disciplinary Authority vide its order dated 25th September, 2006 (*Annexure P-18*) has relied upon letter of 2nd December, 2005 written by Santokh Singh, Zonal Manager to the General Manager (Vigilance) regarding complainant-*Dr.Atul Kapoor* informing him on 18th November, 2005 about his paying ₹18,000/- to aforesaid G.S.Duggal.

4. The precise submission of learned counsel for petitioner is that the said letter of 2nd December, 2005 purportedly written by Santokh Singh, Zonal Manager, has not been duly proved on record and the complainant has not stepped into the witness box and the Division Bench of Allahabad High Court has already held that the charge of payment of amount in cash

by Dr. Atul Kapoor does not stand proved. Thus, it is submitted that the case of petitioner is at par with the case of G.S.Duggal and so, the penalty inflicted upon petitioner deserves to be set aside and since petitioner has superannuated about five years ago, therefore, the consequential benefits ought to be granted to petitioner.

5. On the other hand, learned counsel for respondent-Bank supports the impugned order and relies upon Supreme Court's decision in *Union of India vs. P.Gunashekaran* AIR 2015 SC 545 to submit that this Court in exercise of Writ Jurisdiction will not re-appreciate the evidence or go into the inadequacy of the evidence and since the charge leveled against petitioner stands proved from the evidence of S.S.Nayar and H.K.Gulati, therefore, impugned penalty order deserves to be maintained.

6. Upon hearing and on perusal of impugned penalty order, the decision of 6th February, 2012 of Allahabad High Court and material on record and the decision cited, I find that in the absence of evidence of Santokh Singh and the complainant, the charge leveled against petitioner could not be sustained. In fact, evidence on record does not establish any nexus between G. S. Duggal and petitioner. In the considered opinion of this Court, the case of petitioner is on better footing than the case of G. S. Duggal, whose penalty order has been already quashed.

7. In light of the aforesaid, the impugned order of 25th September, 2006, appellate order of 30th April, 2008 and order of 16th December, 2008 of the reviewing authority are hereby set aside with direction to respondent-Bank to grant all consequential benefits to petitioner except the arrears of salary from the date of dismissal, till the date of

superannuation. However, petitioner shall be entitled to 50% of the pay and allowances as already granted to G.S. Duggal by High Court of Allahabad.

8. With aforesaid directions, this petition and the applications stands disposed of.

(SUNIL GAUR)
JUDGE

MAY 03, 2018

v