

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

Date of Order: April 03, 2018

+ **W.P.(C) 5798/2017 & CM 24139/2018**

STATE BANK OF INDIA Petitioner

Through: Mr. Shiv K. Tyagi, Advocate

versus

RAVINDER KUMAR (THROUGH: LEGAL HEIRS)

.....Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned Award of 19th September, 2016 grants ₹46,315.32/- with interest @10% *per annum* with costs towards leave encashment of 84 days of privilege leave due to deceased-workman on the date of his removal from service i.e. 22nd January, 2001.
2. Learned counsel for petitioner submits that workman-Ravinder Kumar was removed from service by way of punishment and after delay of seven years, the claim petition had been filed. It is submitted that in a case of '*removal from service*', leave encashment is not payable. To submit so, attention of this Court is drawn to petitioner-Bank's Circular of 8th July, 2015 (*Annexure P-10*).
3. Upon hearing and on perusal of impugned Award and the material on record, I find that leave encashment has been granted to respondent by learned Tribunal while observing as under: -

“That since the removal of the workman from service vide order of the Banks Asstt. General Manager dated 22.01.2001, being under Clause 21(iv) (b) of the Bipartite Settlement dated 14.02.1995 was ‘with superannuation benefits’, as explained in paragraph 3 hereinbefore, the applicant was entitled to the benefit of ‘Encashment of Privilege Leave’, which is one of the superannuation benefits.”

4. Reliance placed by petitioner’s counsel upon Circular of 8th July, 2015 (Annexure P-10) is of no avail as the said Circular relates to a period after petitioner was removed from service. The reference in this Circular to a letter of 23rd April, 2007 is of no consequence because the claim petition was filed by respondent prior thereto. There is nothing on record to indicate that at the relevant time, the leave encashment was not payable to an employee, who has been removed from service. The aforequoted reasoning of the learned Tribunal has not been assailed before this Court. So far as the delay in filing the claim petition is concerned, I find that there is no effective cross-examination of respondent on the delay aspect and so, on this ground, impugned Award cannot be faulted with.
5. In light of the aforesaid, this petition and the application are dismissed being without merit.

(SUNIL GAUR)
JUDGE

APRIL 03, 2018

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