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

+ **LPA 614/2018**

SYNDICATE BANK		 Appellant
	Through	Mr. Jagat Arora & Mr. Rajat Arora,
	Advocates	
	versus	
S R MITTAL		 Respondent
	Through	None

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 29.10.2018

CM Appl.No. 45093/2018 (delay)

1. For the reasons stated in the application, the delay in filing the appeal is condoned and the application is disposed of.

LPA No. 614/2018 & CM Appl.No. 45092/2018 (stay)

2. The Syndicate Bank is in appeal against the order dated 27th July, 2018 of the learned Single Judge allowing WP (C) No.4926/200 filed by the Respondent herein.

3. The charge sheet against the Respondent contained two articles of charge. These related to credit facilities extended by the Respondent to two entities during the period when he was working as a Sub-Manager at the Faridabad Branch of the Appellant bank. The articles of charge alleged certain irregularities having been committed by the Respondent in granting such credit facilities.

4. The question before the learned Single Judge was about the legality of the inquiry held by the Inquiring Officer ('IO') particularly on the aspect of providing the Respondent with the documents sought by him for defending his case.

5. As noted by the learned Single Judge, Regulation 6 (10)(D)(2) and Regulation (6) (11) & 6 (12) of the Syndicate Bank Officers Employees (Discipline and Appeal) Regulations, 1976 permitted the Charge officer to indicate to the IO the documents required by him and also stating why they were relevant for the purpose of inquiry. This was apparently done by the Respondent before the IO. Thereafter the IO required the Presenting Officer ('PO') of the Bank to make those documents available to the Respondent. However, the Appellant Bank took the stand that those documents were not available and therefore could not be supplied to the Respondent.

6. When the matter was before the learned Single Judge, a counter affidavit was filed by the bank stating that those documents in fact will be available with its ARM Branch at Chandigarh. Yet those documents were not produced along with the counter affidavit or even presented before the learned Single Judge.

7. When the matter was heard before the learned Single Judge in 2018, the Appellant Bank took the stand that it could still not produce those documents because there was a fire in the Chandigarh office in 2015 during which those documents got destroyed. Effectively, because of the stand of the Bank, there was no occasion for the learned Single Judge to in fact ascertain whether the stand taken by the Bank that the documents sought by

the Respondent were not relevant was in fact justified. It ended up frustrating the entire case because meanwhile the Respondent had attained the age of superannuation and there was no question of reinstating him in service either.

8. Before us Mr. Arora repeatedly urged that the documents sought by the Respondent were not relevant for the inquiry and therefore no prejudice was caused to the Respondent. However as pointed out rightly by the learned Single Judge, the shifting stand of the Appellant Bank both before the IO and later before the Single Judge brought about a situation where the above stand of the Bank could never actually be examined on facts either by the IO or by the learned Single Judge. Unfortunately, even this Court is not in a position to do so.

9. The net result is that the Court is unable to find any error committed by the learned Single Judge setting aside the punishment of compulsory retirement and treating him as having continued in service till the date of his superannuation with all consequential benefits.

10. No case is made out for interference with the above impugned order of the learned Single Judge.

11. The appeal is dismissed. Pending application is also disposed of.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

OCTOBER 29, 2018/mw