

**CWP-1188-2023 (O&M)
Date of decision-20.01.2023**

Shankar Dass Jindal

...Petitioner

Vs.

State Bank of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ravish Bansal, Advocate for the petitioner.

Mr. Akshay Jain, Advocate for the respondents.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for setting aside the order dated 15.01.2005 (Annexure P-5) passed by the appellate authority, thereby affirming the order dated 31.05.2004 (Annexure P-4) passed by the punishing authority, whereby the petitioner was removed from service. Further prayer is for issuance of a writ in the nature of mandamus directing the respondents to consider and decide the legal notice dated 22.06.2022 (Annexure P-7) and to reinstate him in service with full back wages, continuity in service and all service benefits including retiral benefits such as gratuity, leave encashment, provident fund, pension etc.

Learned counsel has argued that the petitioner joined his services with State Bank of Patiala on 10.10.1992 as Clerk-cum-Cashier on regular post and in the year 1998, he was designated as Head Cashier. He

submits that the petitioner had laid trap against his senior officer, who was demanding bribe from him and in the said case, the petitioner was wrongly and illegally implicated as an accused. He submits that as a result of the petitioner's implication in case FIR No.18, dated 4.4.2002, under Section 7, 12, 13 (2) of the Prevention of Corruption Act, 1988, Police Station Vigilance Bureau, Patiala, he was suspended and later charge-sheeted on 29.01.2003. According to the learned counsel, in the said departmental enquiry, petitioner had submitted a letter dated 17.11.2003 (Annexure P-3) with a request to defer the enquiry proceedings during the pendency of the criminal case, but pursuant to the said enquiry, the petitioner was compulsorily superannuated from service, without disqualification from future employment by the Assistant General Manager vide order dated 31.05.2004 (Annexure P-4). Aggrieved against this order, he filed an appeal, but the same was also dismissed by the Deputy General Manager, through decision dated 15.01.2005 (Annexure P-5).

Learned counsel further argued that in the criminal trial though the petitioner was convicted vide judgment dated 13.05.2004, who was sentenced to undergo rigorous imprisonment for a period of two years and six months, but his appeal against the judgment of conviction and order of sentence was accepted vide judgment dated 28.02.2019 (Annexure P-6). Learned counsel submits that since the petitioner stands acquitted, he submitted a legal notice dated 22.06.2022 (Annexure P-7), but no decision has been taken upon the same, therefore, he prays that a writ of mandamus be issued directing the respondents to reinstate the petitioner in service with full back wages, continuity in service and all service benefits including

retiral benefits as the gratuity, leave encashment etc. along with interest @ 12% per annum.

After hearing the learned counsel and considering the above background, this Court finds that the petitioner faced prosecution in a criminal case registered under Prevention of Corruption Act, 1988 and on a legitimate ground, he was suspended and was subjected to departmental enquiry, wherein the findings were recorded against him and he was retired from service in the year 2004 and the Appellate Authority also affirmed the said decision. During the course of hearing, learned counsel is unable to justify the delay in challenging these orders through the writ petition, which has been filed in September, 2022. Apart from it, the judgment of acquittal in favour of the petitioner is delivered after he had attained the age of superannuation and the legal notice dated 22.06.2022 (Annexure P-7) has been sent to the respondents after three years and four months of his acquittal. Concededly, the petitioner is now more than 71 years of age and his relationship with the respondent-Bank as an employee stood severed long back in the year 2004, therefore, the challenge to the impugned orders suffers from delay and latches.

Resultantly, this Court is not inclined to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

20.01.2023

geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No