



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1912 OF 2019

Krishna S/o Rambhau Nandanwar

Vs.

State Bank of India through its Chief General Manager and another

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Petitioner in person.

Mr. M. Anilkumar, Advocate for Respondents

**CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 28th FEBRUARY, 2024

The petition questions the order of punishment dated 16/05/2017 (page 82), whereby the petitioner has been removed, in pursuance to the enquiry conducted against him in terms of the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (page 132) and the consequent punishment imposed against him in terms of Rule 68(1)(i) of the State Bank of India, Officers Service Rules by invoking Rules 50(8) and 50(4), thereby directing removal from his service with superannuation benefits in terms of Rule 67(i) of the aforesaid Rules. The punishment has been maintained in appeal by the order dated 29/07/2017 (page 102) and in review by the order dated

14/3/2018 (page 12).

2. It is contended by the petitioner in person, that no enquiry whatsoever was held either under the Act of 2013 or under the Service Rules and therefore, the punishment imposed upon him was not justified. It is also contended, that even otherwise the punishment is disproportionate and therefore, on this count also cannot be sustained.

3. Mr. Kumar, learned counsel for the respondents supports the impugned order and contends relying upon **Medha Kotwal Lele and others Vs. Union of India and others (2013)1 SCC 297** and specific directions given therein in para 44 to contend, that appropriate modifications have been made in the Service Rules to the effect that no further enquiry is necessary to be conducted under the Service Rules, once an enquiry under the Act of 2013 is conducted, which report is to be taken as an enquiry report, for the enquiry under the Service Rules. It is, therefore, submitted, that the report of the Committee constituted under the Act of 2013, dated 29/10/2016 (page 132) has been duly taken into consideration by the authorities below for imposing the punishment, which according to him is correct and proper.

4. It is necessary to note, the nature of the

incident as indicated in the Complaint dated 26/07/2016 made against the petitioner. It is contended, in the Complaint that on 25/07/2016 at around 6:45 PM, the petitioner, who was the Manager of the Hinganghat Branch of the respondent Bank, made the following utterance against the complainant, who was a Clerk in the same Branch, in his cabin.

“You are a prostitute, aur tum jaise logon ko main acche se jaanta hoon”.

5. Pursuant to the Complaint, a Committee was constituted under the Act of 2013, as indicated in the final report dated 29/10/2016 (page 132).

6. A perusal of the report of the Committee dated 29/10/2016, would indicate, that the Committee had recorded the statement of the complainant as well as one more witness on her behalf. The petitioner was also called upon to lead evidence, who thereupon denied the allegations and expressed that he did not wish to examine any witness from his side. Though a contention is raised by the petitioner in person, that there was no enquiry at all, however, a perusal of the final report of the Committee dated 29/10/2016 would indicate, that the enquiry was accordingly conducted by affording an opportunity to the petitioner also to examine any

witness in rebuttal, which he declined. The contention therefore, that there was no enquiry at all under the Act of 2013, is clearly not sustainable and is accordingly rejected.

7. That takes us to a plea regarding absence of enquiry under the Service Rules. In view of what has been stated by the Hon'ble Apex Court in **Medha Kotwal Lele** (Surpa) and the amendment to the Service Rules in consonance thereto, as indicated by the Circular dated 24/12/2013, a copy of which has been tendered across the bar and marked as "X" for identification, it is apparent, that the Service Rules applicable to the petitioner stand modified in terms of what has been directed by the Hon'ble Apex Court in **Medha Kotwal Lele** (supra). It would, therefore, be apparent, that the Disciplinary Committee has rightly considered the final enquiry report dated 29/10/2016 by the Committee constituted under the Act of 2013, as the report on the basis of which punishment has been imposed.

8. That takes us to the contentions that the punishment is disproportionate. The nature of punishment is already indicated above. The punishment, which under the terms of the Act of 2013, which can be imposed are spelt out in Sections 13(3)(i) and (ii). This would also indicate, that it

was permissible for the respondents, to have transferred the petitioner to some other work place instead of imposing the punishment of compulsory superannuation.

9. Without going into the merits of the final enquiry report, it would be necessary to consider that the incident is claimed to have occurred within the confines of the cabin of the petitioner, where except for the petitioner and the complainant nobody is claimed to be present, indicating that there is no corroborative evidence as regards the statement made by the complainant. In this situation, it would be clearly apparent, that the punishment imposed upon the petitioner i.e. removal from service with superannuation benefits in terms of Rule 67(1) of the SBIOSR is clearly disproportionate. The appellate as well as the reviewing orders, do not consider the disproportionality of the punishment. The authorities below failed to consider, that the petitioner in person, as on the date of the incident had also rendered 23 years of unblemished services to the respondent, without any allegations of whatsoever nature against him, which was also a factor, which was necessarily required to be considered. However, neither the order imposing the punishment, nor those the appellate authority and the reviewing authority take into consideration this position and on a singular

statement made by the complainant, which stood unsubstantiated on account of lack of any witness, has imposed the extreme penalty of removal of service, with superannuation benefits. This clearly is not justified considering the allegations made. We, therefore, quash and set aside the order of punishment dated 16/05/2017 as well as appeal by the order dated 29/07/2017 and in review by the order dated 14/3/2018 and remit the matter before the Disciplinary Authority to reconsider the punishment imposed, in proportion to the misconduct alleged. The petition is accordingly allowed in the above terms. No costs.

10. The further action, shall be taken by the Disciplinary Authority within a period of three months from today.

(SMT. M.S.JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)