

A

THE STATE BANK OF INDORE

v.

GOVINDRAO

JANUARY 17, 1997

B

[J.S. VERMA, SUHAS C. SEN AND S.P. KURDUKAR, JJ.]

*Constitution of India—Article 226—Delay/Laches—Dismissal from service—Appeal against the dismissal was dismissed—Nearly after four years special appeal was preferred which was also dismissed—Writ petition after ten years challenging the order of dismissal—Held, writ petition after such a long lapse of time cannot be entertained—Service Law.*

C

*Service Law—Bank—Grant of loan—Responsibility/Liability of the officer acting in supervisory, capacity—Loan granted in disregard of rules, became irrecoverable—Power of granting loan was conferred on other employee—Held, it would not absolve the officer who had acted in supervisory capacity, from the charge of causing loss to the Bank, since higher the position of an officer, the greater is his responsibility.*

D

**G was an agent of a Bank. Some loans were granted by the Bank in total disregard of the specified rules; as such the loans became completely irrecoverable. G was served with a charge sheet for causing loss to the Bank. Enquiry officer submitted inquiry report to the Disciplinary Authority that G was guilty of negligence. G objected that the D.O was primarily responsible for granting of loans, he had acted only in supervisory capacity. Disciplinary Authority after considering the report and the objection, passed an order and dismissed G from the service.**

E

F

**On 2-6-1978, G preferred an appeal against the order of dismissal, which was dismissed by the appellate authority. Nearly after four years, another appeal (described as special appeal) was filed by G, which was also dismissed on 12-5-1982. Five years thereafter i.e. on 6-4-1987 G filed a Writ Petition challenging the validity of the order of dismissal passed on 3.10-1977 before the High Court.**

G

H

**High Court quashed the order of dismissal on the ground that if the charges put together, they merely point to lack of supervision or negligence and held that G deemed to have retired on his due date of retirement and**

directed the Bank to pay all the dues to the writ petitioner. Hence, this appeal. A

Allowing the appeal, this Court

**HELD: 1.** In any event, the writ petition challenging the order of dismissal passed on 3-10-1977 cannot be entertained and set aside by the writ court after a lapse of nearly 10 years by re-evaluating the evidence and reappraisal of the charge-sheet. [303-B] B

**2.** The lack of supervision or negligence of G resulted in grant of huge irrecoverable loans by the Bank. The higher the position of an officer the greater is his responsibility. The power conferred on D.O. in the matter of granting loans cannot absolve G. The order passed by the High Court is set aside. [303-A-B; C] C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3136 of 1991. D

From the Judgment and order dated 21.6.90 of the Madhya Pradesh High Court in M.P. No. 417 of 1987.

A.K. Chitale and S.K. Gambhir for the Appellant.

Sushil Kr. Jain, Ms. P. Jain and A.P. Dhamija for the Respondent. E

The Judgment of the Court was delivered by

SEN, J. Govindrao was agent of Ujjain Branch of the State Bank of Indore. On 18th March, 1977 a chargesheet was served upon him in which it was alleged that loans were granted from his Branch of the Bank in total disregard of the rules regulating grant of such loans which had become irrecoverable and thereby had caused loss to the Bank. Govindrao was supplied with copies of all the documents demanded by him and was permitted to inspect records, vouchers, etc. but he did not file any reply to the allegations made against him. The Enquiry Officer found Govindrao guilty of negligence in the matter of granting of the loans and made his report after waiting for the reply from Govindrao for a considerable period of time. Thereupon the Disciplinary Authority issued a show cause notice to Govindrao calling upon him to show cause why he should not be dismissed. On 28.9.77 Govindrao informed the Disciplinary Authority that H

A the Development Officer, Shri Sharda, was primarily responsible for granting of the irrecoverable loans. Govindrao had acted only in supervisory capacity.

B On 3rd October, 1977 the Disciplinary Authority, after taking into consideration the objection filed by Govindrao, passed an order dismissing him from service. On 2nd June, 1978 the Bank paid Govindrao full Provident Fund which was forwarded along with a letter of the same date. On 5th June, 1978 Govindrao accepted the Provident Fund amount subject to certain objections and claim of interest. On 18th July, 1978, appeal preferred by Govindrao against the order of dismissal, was dismissed by C the Appellate Authority. Nearly four years thereafter, another appeal (described as Special Appeal) was filed by Govindrao which was again dismissed.

D Nothing happened thereafter for nearly five years. On 6th April, 1987 Govindrao decided to move a writ petition challenging the validity of the order of dismissal passed on 3.10.1977. The writ petition came to be heard by a Division Bench of the Madhya Pradesh High Court. By a judgment and order dated 21.6.1990, V.D. Gyani and A.G. Qureshi, JJ. quashed the order of dismissal. V.D. Gyani, J., speaking for the Bench, held that the writ petitioner must be deemed to have retired on his due date of retirement i.e. 9th October, 1977. The Bank was directed to pay all the dues, E Provident Fund, pension, gratuity to the writ petitioner within three months from the date of the judgment.

The Bank has come up in appeal against this Judgment.

F It is difficult to see how this writ petition was entertained at all by the High Court. The date of dismissal was 3rd October, 1977. The appeal against that order was dismissed on 18th July 1978. The writ petitioner did not choose to challenge that appellate order by way of a writ petition. What was described as Special Appeal was again dismissed on 12th May, 1982. G There was no reason for the High Court, after a long lapse of nearly ten years from the date of the order of dismissal, to entertain the writ petition and quash the order of dismissal. We are of the view that the High Court should not have entertained that at all. It should have been dismissed *in limine*.

H Gyani, J. examined the charges framed against Govindrao and held

that "the charges put together, merely points to lack of supervision or negligence". A

This lack of supervision or negligence resulted in grant of huge irrecoverable loans by the Bank. The higher the position of an officer the greater is his responsibility. The power conferred on Sharda in the matter of granting of loans cannot absolve Govindrao in any way. In any event, an order of dismissal passed on 3.10.1977 cannot be entertained and set aside by a writ court after a long lapse of nearly 10 years by re-evaluating the evidence and re-appraisal of the chargesheet. B

This appeal is allowed. The order passed by the High Court dated 21.6.1990 is set aside. C

When the Special Leave Petition was moved, on 26.11.1990 an interim order was passed directing the appellant Bank to pay the respondent an amount of Rs.15,000 subject to adjustment within four weeks. It is directed that the respondent will be entitled to retain the said sum of Rs. 15,000. The Bank will pay off all the outstanding dues to the respondent which may be payable to him in accordance with the rules, if any, as expeditiously as possible. D

There will be no order as to costs.

B.K.S.

Appeal allowed. E