

(2014) 01 SC CK 0013

In the Supreme Court Of India

Case No : C.A. No. 872 of 2014 (Arising out of SLP (C) No. 12554 of 2013)

State Bank of Patiala and Another

APPELLANT

Vs

Vijay Garg

RESPONDENT

Date of Decision : 17-01-2014

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13, 13(2), 7

Citation : (2014) 5 SCALE 434 : (2014) 4 SCT 197 : (2015) 2 SLJ 102

Hon'ble Judges : H.L. Gokhale, J;Dipak Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard Mr. Chander Uday Singh learned senior counsel appearing on behalf of the Appellants and the Respondent appearing in person. Leave granted.

2. This appeal has been filed by the State Bank of Patiala being aggrieved by the impugned order dated 22.11.2012 passed by the High Court of Punjab and Haryana in Civil Writ Petition No. 12605 of 2005 filed by the Respondent herein whereby the writ petition was allowed. The facts in this appeal are that the Respondent, at the relevant time was a Middle Management Scale-II Officer and was working as Branch Manager in the Appellant Bank. He was placed under suspension for accepting the illegal gratification of Rs. 8000/- on 11th March, 1995 in connection with the disbursement of a loan. He was charged u/s 7 and 13(i)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and was convicted by Trial Court and sentenced to undergo R.I. for two years with a fine of Rs. 2,500/-.

3. Being aggrieved, the Respondent challenged the said order of conviction by way of filing an appeal before the High Court. The appeal was admitted by the High Court and conviction and sentence was ordered to be suspended during the pendency of the appeal. On the basis of the Trial Court's order, the Bank discharged the Respondent from its service from 30.12.2003. Being aggrieved by

the order of discharge from service, the Respondent filed a statutory appeal which was dismissed. The Respondent requested the Bank for the payment of pension and other consequential benefits which was declined on account of discharge from service. The Bank was of the view that he was not entitled to any pensionary benefits.

4. Being aggrieved, the Respondent filed the aforesaid Civil Writ Petition before the High Court. By an order dated 18th November, 2010 the High Court set aside the order of conviction and by impugned order dated 22.11.2012 the order of discharge from service was set aside and the writ petition was allowed. The Respondent was directed to be reinstated and the Bank was directed to pay him the salary and other pensionary benefits. It is material to note that in the meantime, the Respondent had reached the age of superannuation on 31.1.2012.

5. Mr. Chander Uday Singh learned senior counsel appearing for the Appellant Hunk has drawn our attention to the judgment rendered by this Court in the case of State Bank of India and Anr. v. Mohammed Abdul Rahim in C.A. No. 5472 of 2013 decided on 15th July, 2013. In view of the said judgment and particularly paragraphs 9 and 11, the Respondent cannot claim wages because once he was convicted earlier, he would be entitled only for the period when his conviction was set aside i.e. from 18.11.2010 until his date of superannuation which was 31.1.2012. Accordingly, we allow the appeal to this limited extent and the Respondent will be entitled to the wages for the aforesaid period from 18.11.10 to 31.1.2012. He will also be entitled to his pension. We may further record that in view of the order passed by this Court on 26.8.2013, the Bank has already started paying pension to the Respondent. If there are any other retiral benefits due to the Respondent, the Bank will clear them within a period of eight weeks from today. We clarify that while calculating the fixation of pension and deciding the retiral benefits, the period of suspension will be included in the service put in by the Respondent.