

From the Editorial Desk

Generally, the Service Regulations regarding disciplinary proceedings provide for appeal only against the penalty imposed by the prescribed or competent authority under the relevant Regulations. This right of appeal is usually available to the employee who has been subjected to the penalty upon him for his misconduct. While the Service Regulations of the Reserve Bank do not provide for enhancement of penalty by the Appellate Authority, some of the organizations, as part of their service conditions applicable to the employees, do authorise Appellate Authority to enhance the quantum of penalty imposed by the prescribed authority. This right, in practice is exercised by the Appellate Authority only when the concerned employee decides to prefer an appeal against the order of penalty imposed on him. Such a right of appeal in such situation proves to be a double edged weapon. The Supreme Court, in a recent case had to deal with such a case where the employee, to his dismay, had to face far reaching penalty of dismissal from service imposed by the Appellate Authority. In this, the Supreme Court was concerned with a case of an officer of a public sector bank who unauthorisedly having sanctioned loan to his wife, on the disciplinary proceedings being initiated against him, was visited with a minor penalty of reduction in salary by one increment by the disciplinary authority. However, on his preferring an appeal against such penalty, the Appellate Authority after issuing a notice under the relevant service conditions, passed an order dismissing him from the service. This order of enhancement of penalty in the Appellate Authority was unsuccessfully challenged before the High Court and finally before the Supreme Court. While dismissing the appeal, the Supreme Court examined the question whether the penalty imposed on the officer was commensurate with the misconduct. The Supreme Court observed that the officer was holding the high position and honesty and integrity were inbuilt needs of his function and therefore such cases could not be dealt with lightly and upheld the penalty of dismissal. The only saving grace in his case was that even though his dismissal from the service was upheld by the Supreme Court, in view of the peculiar circumstances of the case, he was given the benefit of pension and gratuity to which under the relevant regulations, he may not have been entitled. This judgement will be of some importance to the banking industry and is included in this issue of the journal.

The present issue begins with an article on legal and regulatory framework for cooperatives. It is followed by another article of topical interest namely Construction of the Reconstruction Act. In the Judgements Section, we have included a variety of judgements of different High Courts and the Supreme Court, which will be of interest to bankers. The Legislation Section covers the Enforcement of Security Interest and Recovery of Debts, Laws (Amendment) Ordinance, 2004. In the Book Review and Bibliography Section, we have reviewed a book, 'Fundamental Rights, a Study of Their Inter-relationship' by Shri P.Ishwara Bhat. The Bibliography Section as usual covers recent articles on law which would be of interest to bankers. Apart from the above, we have our usual features like L.D.News and Mail Bag.

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