



W.P(MD)No.11555 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P(MD)No.11555 of 2014

and

M.P.(MD)No.1 of 2014

and

W.M.P.(MD)No.352 of 2022

S.Ganapathy

... Petitioner

Vs.

1.The Chairman/Appellate Authority,
Pandyan Grama Bank,
2070-1, Collectorate Complex,
Administrative Office,
Virudhunagar & District.

2.The General Manager/Disciplinary Authority,
Panyan Grama Bank,
2-70-1, Collectorate Complex,
Administrative Office,
Virudhunagar & District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders passed by the second respondent dated 08.05.2013 in AIVD/V/373/13-14 and the order passed by the first respondent in AIVD1062/13-14 dated 27.12.2013 and quash the same and consequently direct the respondents to reinstate the petitioner with all attendant benefits.



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W.P(MD)No.11555 of 2014

For Petitioner : Ms.D.Geetha
For R1 : Mr.Srinivasamoorthy
for Mr.N.G.R.Prasad
For R2 : No Appearance

ORDER

This writ petition has been filed seeking for a writ of certiorarified mandamus to call for the records on the file of the disciplinary authority in proceedings No.AIVD/V/373/13-14, dated 08.05.2013 and the confirmation order of the first respondent in proceedings dated 27.12.2013 and to quash the same.

2.The facts leading to filing of this writ petition are:

(i)The petitioner was employed as a Messenger in Pandyan Grama Bank. While the petitioner was working in Pandyan Grama Bank, Puliyaal Branch, the petitioner's wife, namely Mrs.Manimegalai, had pledged 8 gold ornaments and availed jewel loan. This was in Account No.AJL. 818/2006 on 13.12.2006. On 08.10.2007, Mr.Elakkuvan, Branch Manager of the Sivaganai Branch of the first respondent Bank, commenced 100 jewel loans verification of the Puliyaal Branch. At the time of inspection, it was found that out of 8 jewels pledged by Mrs.Manimegalai, wife of the petitioner, one ornament, namely a gold dollar chain approximately weighing 50 grams was missing from the

packet.

<https://www.mhc.tn.gov.in/judis>



(ii) It is the case of the respondents that the petitioner had misused his official capacity and had stealthily removed the gold chain from the packet in Jewel Loan No.818 of 2006. Mr.Elakkuvan had instructed the Bank Manager to keep the jewels pledged in AJL No.818 of 2006 in a safe custody. Immediately, on 09.10.2007, the writ petitioner redeemed the jewel loan in Loan Account No.AJL.818 of 2006 and re-pledged the jewels i.e., 7 ornaments (apart from the missing gold chain) together with 2 new bangles of low fineness and raised a new jewel loan in Loan Account No.AJL Nos.1542 and 1543 of 2007. Thus, by closing the disputed jewel loan account, the petitioner was served with a charge sheet by the second respondent, dated 11.07.2008. The charges of the charge sheet are as follows:

“1.You had unauthorisedly and dandestinely removed the jewel packets relating to AJL 818 /06 pledged in the name of your wife, Mrs. Manimegalai, at Puliya Branch and thus committed gross misconduct and breach of trust.

2] For your personal, wrongful, pecuniary gain, you had arranged to pledge the above stolen gold ornaments at Karaikudi branch under AJL No. 1923/07 dated 11-06-2007 for Rs.25000- in the name of your wife Mrs. Manimegalai.

3) When the theft was detected, in order to suppress your misconduct, you had arranged for redemption of jewels by closing the account, thus committed the act of tampering with the



evidences.

4] While arranging the closure of disputed jewel a/c by your wife, Mrs. Manimegalai by repledging, you had brought two new bangles of low fineness and pledged them. Thus you had acted with mala fide intention to cheat the bank.

5] On 31-08-07, you deliberately made a credit entry for Rs.5000- in your wife's Agricultural Jewel Loan, [AJL No.818/06] without any basis and without any supportive vouchers in order to make a wrongful gain. Moreover in order to suppress / conceal your deliberate fraudulent act, you have falsified the accounts by manipulating the aggregate quarterly interest figures under AJL category.”

(iii)After enquiry, the second respondent stated that the charges of misconduct have been proved against the petitioner. Hence, the petitioner was called upon to respond to the charge sheet within a period of fifteen days. The reply was issued by the petitioner stating that the security items in the Branch are in the joint custody of the cashier and the Manager and he does not have any access to the same. He further stated that his wife Mrs.Maninegalai, would have pledged her jewels at Karaikudi Branch of the Pandyan Grama Bank in AJL No.1923 of 2007 as there was no evidence of the Missing jewel at the Puliyal Branch. He further stated that as a Messenger, he had no role in appraising jewels or sanctioning of the loan and that was the job of the Branch Manager and



W.P(MD)No.11555 of 2014

Appraiser. Finally, he submitted that as a subordinate staff, it is not possible to operate any computer and therefore, the charge against him is motivated and has to be dropped.

(iv) Taking note of the denial of charges, the disciplinary authority appointed one Mr.K.S.Sankaranarayanan as an Enquiry Officer. He conducted a detailed enquiry. On behalf of the Management, five witnesses were examined and 85 Exhibits were marked. On the side of the defense, the writ petitioner examined himself as witness and marked 22 defence exhibits. At the end of enquiry, the Enquiry Officer submitted a report that all the five charges placed on the door step of the petitioner stood proved.

(v) The disciplinary authority thereafter, sent the report of the Enquiry Officer to the writ petitioner and the writ petitioner also submitted response to the same on 05.09.2012. Not being satisfied with the said reply, show cause notice dated 11.05.2013 was issued to the writ petitioner as to why he could not be dismissed from service in terms of the applicable regulations. On 15.04.2013, the writ petitioner also responded to the show cause notice.



W.P(MD)No.11555 of 2014

(vi)Not being satisfied with the said reply, the second respondent passed an order on 08.05.2013 dismissing the writ petitioner from service. Aggrieved by the said order of dismissal, the writ petitioner filed an appeal on 17.06.2013 before the first respondent namely, the appellate authority. The appellate authority also discussed the case of the petitioner in detail and dismissed the same on 27.12.2013. Both these orders are put to challenge in the present writ petition.

3.I have heard the learned counsel for the petitioner and the learned counsel for the respondent. I have also carefully gone through the records and the materials placed before me including the counter filed by the respondents.

4.At the outset, I have to take note of the fact that as per the order of the Ministry of Finance (Department of Financial Services), Pandyan Grama Bank and other Bank, namely Pallavan Grama Bank were merged with effect from 01.04.2019 and as on today, the respondent is now remained as Tamil Nadu Grama Bank.

5.The fact that the petitioner's wife had pledged 8 items of jewels on 13.12.2006 with the Puliya Branch, is not in dispute. Out of 8



W.P(MD)No.11555 of 2014

ornaments, which she had pledged, one ornament was found missing.

During the routine course of inspection, it came to the notice that a gold chain is missing from the packet. The Inspecting Officer, Mr.Elakkuvan, (examined as M.W.2) had instructed the Manager of Puliyal Branch to lock the other jewels in Jewel Loan Account No.818/2006 in the safe wallet. This lapse had been informed to the Headquarters.

6. Curiously, on the next day of the inspection, the petitioner was able to redeem the jewels and the very same jewels were re-pledged with the very same Bank in AJL Nos.1542 and 1543 of 2007. Noticing that the gold chain was missing and Mrs.Manimegalai's husband/petitioner could have played a role in the missing jewel, charge sheet has been presented. The Enquiry Officer in his report, which has been placed before me, has discussed the issue in detail and had come to the conclusion that all the charges against the petitioner had been proved. The disciplinary authority had also discussed the facts in detail and accepting the Enquiry Officer's report, dismissed the petitioner from service.

7. The argument of the learned counsel for the petitioner that the petitioner had been victimized for his Union activities, could have had



the consideration, had it been raised at the earliest point of time.

However, reading of the reply given by the petitioner as well as the other defence taken by the petitioner during the relevant point of time shows that such defence was never taken. Therefore, it is obvious that this defence has been raised only for the purpose of this litigation. The fact that the jewels were redeemed on the very next day, i.e., after inspection had been concluded by the Inspecting Officer, is also not in dispute. It is not in dispute that out of 8 jewels, at the time inspection by Mr.Elakkuvan, one Chain was missing. But, the petitioner was able to close the jewel loan and redeem only 7 jewel and having redeemed the 7 jewels, he was able to get the loan on the very same securities, on the next day of inspection i.e., 09.10.2007, in AJL Nos.1542/2007 and 1543/2007. Apart from this, a loan was also raised on a gold chain at Karaikudi Branch. The explanation of the petitioner that his wife had two gold chains of same type had not been substantiated.

8.These factual issues had been gone into by the second respondent. The second respondent has found that the writ petitioner had stealthily removed the jewels pledged at Puliyal Branch and had managed to pledge the very same jewel, the very next day, despite the specific instructions given by Mr.Elakkuvan. If at all there is necessity



for the petitioner to redeem 8 jewels on 09.10.2007, it is highly improbable that the very same jewels are re-pledged all over again. It is clear from this narration that the petitioner wanted to throw smoke screen over the missing jewel and that is why he redeemed the first packet and yet again had availed loans before different branches.

9.I should remember that I am dealing with the case of financial Institution, where the allegation of misconduct has been made against an employee of the said Institution. The allegation had been enquired and found to be true. It has been independently gone into by the appellate authority. I should also remind myself that the scope of Article 226 of the Constitution of India, while dealing with the matters especially when the Fact Finding Authority and the Appellate Authority have concurrently come to the conclusion, is very limited. I am only concerned with the decision making process and not with the decision itself.

10.Nonetheless in order to satisfy myself, I went through the report of the Enquiry Officer. The Enquiry Officer, on the basis of the report of Mr.Elakkuvan (M.W.2), dated 16.10.2009 marked as ME28 and Mr.B.Murugesan (M.W.3), dated 19.10.2007 marked as ME39, had come to the conclusion that the concept of dual custody, which is the sheet



anchor of the case of the petitioner, was not strictly adhered to in the Puliya Branch. The misconduct is clear from the fact that the very same ornaments answering to the very same weight of the pledged jewels, were pledged in other account for a sum of Rs.25,000/- by Mrs.Manimegalai in AJL No.1923/2007 on 11.06.2007. Apart from this, the jewel i.e., gold chain, which had been pledged at Puliya Branch in the year 2006 and which went missing, found its way into the hands of the writ petitioner's wife, and she was able to re-pledge at Karaikudi Branch.

11.This factum of re-pledging the very same ornaments, which had gone missing, had been established by producing documents in ME9 to ME11, namely loan documents, credit cash voucher and Loan Card of AJL No.1923/2007. Therefore, it is possible in the branch of the respondent Bank, wherein the dual custody was not strictly adhered to, enabling the jewel to have been removed by the writ petitioner and re-pledged with the Karaikudi Branch.

12.The facts reveal two opinions. One of the opinion is plausible and it is not open to me in a writ petition to substitute that opinion for my own. The argument of the learned counsel for the writ petitioner be



W.P(MD)No.11555 of 2014

exhaustively for this substituted factual opinion, which had been arrived at by the second respondent. Satisfying by my own and being aware of the limitation of my jurisdiction, I am in a position to do so.

13.The appellate Authority as well as the original authority has discussed the issue extensively and have come to the conclusion that the petitioner is found guilty. The principles of natural justice has been scrupulously adhered to while conducting enquiry by serving the enquiry report, receipt of reply and issuance of two show cause notices and consideration of the reply of the petitioner and then the decision was taken by the authorities concerned.

14.In light of the above, I do not find any reason to interfere with the order impugned in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20.10.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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W.P(MD)No.11555 of 2014

V.LAKSHMINARAYANAN, J

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W.P(MD)No.11555 of 2014

20.10.2023