

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 3233/2023

Date of pronouncement: 04.11.2025

Date of uploading: 10.11.2025

.....Appellant(s)/Petitioner(s)

Arti Baru, age 56 years,
W/o Sh. Anil Raina,
R/o Sector-7 Extension, Channi
Himmat, Jammu.

Through: Mr. Shreenath A Khemka, Advocate.

vs

1. UT of J&K

Through Commissioner Secretary to
Government, Jammu Cooperative
Department, Civil Secretariat, Jammu.

..... Respondent(s)

**2. The Jammu Central Co-operative
Bank Ltd.,**

Through its Managing Director,
Sehkari Bhawan, Rail Head Complex,
Jammu.

3. Smt. Yasha Mudgal, IAS,

Commissioner Secretary to Government,
Cooperative Societies Department, J&K
Government, Civil Secretariat, Jammu.
(Ex-Officio Chairperson Jammu),
The Jammu Central Co-operative Bank
Ltd., Sehkar Bhawan, Rail Head
Complex, Jammu.

4. Sh. Muzafar Sultan,

Managing Director,
The Jammu Central Co-operative Bank
Ltd., Sehkar Bhawan, Rail Head
Complex, Jammu.

5. Assistant Executive

Manager(s)(Enquiry Officer),
Head Office,
The Jammu Central Co-operative Bank
Ltd.,
Sehkari Bhawan, Rail Head Complex,
Jammu.

6. Deputy Executive Manager,
(3rd Show Cause Notice & Leave Issuing
Authority),
The Jammu Central Co-operative Bank
Ltd., Sehkari Bhawan, Rail Head Complex,
Jammu.

7. Assistant Executive (AEM)
(Chargesheet and Suspension order
issuing authority),
The Jammu Central Co-operative Bank
Ltd., Sehkari Bhawan, Rail Head Complex,
Jammu.

Through: Mr. P. D. Singh, Dy. AG.
Mr. S. K. Anand, Advocate.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE
ORDER (ORAL)

1. The petitioner in the instant petition filed under Article 226 of the
Constitution of India has prayed for the following reliefs:-

“(i). Allow the petition of the petitioner;

(ii). Issue an appropriate writ, order or direction in the nature of
certiorari, Quashing Suspension Order No. No. 01.E/027/27178-80
dated 21.12.2023 issued by Assistant Executive Manager Jammu
Central Co-operative Bank, whereby the petitioner has been
placed under suspension;

(iii). Issue an appropriate writ, order or direction in the nature of
certiorari, Quashing Charge sheet bearing no. 01.E/027/27183-85
dated 21.12.2023, being without jurisdiction and in violation of
the Rules;

(iv). Issue an appropriate writ, order or direction in the nature of
Prohibition, restraining the respondents from conducting any
disciplinary enquiry arising out of and/or incidental thereto
Charge sheet Bearing no. 01.E/027/27183-85 dated 21.12.2023
issued by the Respondent No. 7;

(v). Issue an appropriate writ, order or direction in the nature of
Mandamus, commanding the respondents to allow the petitioner
to discharge her duties as Chief Manager, with a further direction
to respondents to regularize the period of service w.e.f. 08.10.2023
to 07.12.2023, as medical leave duly submitted by the petitioner
and also to release the salary of two months; and

(vi). And or any other writ, order or direction which this Hon'ble
Court feels fit proper may also kindly be passed in favour of the
petitioner and against the respondents, keeping in view facts and
circumstances of the present case.”

2. The facts, under the cover of which, the aforesaid reliefs have been prayed by the petitioner and as are stated in the petition are that the petitioner, while working in Jammu Central Co-operative Bank Ltd.-respondent No. 2 herein, as Chief Manager at Sainik Colony Branch, Jammu came to be placed under suspension as well as served with a charge-sheet vide orders' dated 21.12.2023, on the premise that she has failed to comply with Rule 2 of Jammu Central Co-operative Bank Limited, Employee Services Rules of 1997 and failed to maintain strictest secrecy regarding the bank affairs and its constituents.

It is further stated that the placing of petitioner under suspension as also serving charge sheet upon her in terms of order dated 21.12.2023 is without jurisdiction, in as much as, illegal and *mala fide* action, besides, being against Service Rules of 1997 also having been issued with pre-mediated mind to terminate the petitioner's services.

It is also stated that prior to the placing of the petitioner under suspension and issuance of charge sheet in terms of order dated 21.12.2023, the petitioner was served with a show cause notice on 09.10.2023 by respondent No. 7, on baseless and unfounded grounds, relating to an incident of 09.01.2013, to which show cause notice, the petitioner was compelled to respond to within a period of 72 hours, despite the fact, that the petitioner was availing medical treatment and that the said reply was even submitted in the absence of relevant record, though had been sought by the petitioner from the respondents and that the respondents, instead of appreciating the health condition of the

petitioner as also the request made for furnishing her the relevant records, yet issued and served another show cause notice upon the petitioner on 20.10.2023 urging different allegations therein against her besides the allegations levelled in show cause notice dated 09.10.2023 and was even again compelled to respond to the said show cause notice within a period of 72 hours, to which the petitioner accordingly responded to on 24.10.2023 and also sought sufficient time and opportunity to access to the record and to file a comprehensive reply besides seeking extension of time in this regard owing to her ill health.

It is next stated that the respondents, however, without considering the said requests of the petitioner in the responses issued yet another show cause notice on 02.11.2023 styling the same to be the last and final show cause notice calling upon the petitioner to respond to the same within 48 hours and in the event of failure to respond to the same, the petitioner shall be deemed to have been placed under suspension w.e.f. 09.10.2023 i.e., the date petitioner was alleged to be unauthorizedly absent from duty and that the petitioner was constrained again to respond to the said show cause notice dated 02.11.2023 in the absence of relevant record as also while being under treatment although denied the allegations levelled against her in detail.

It is next stated that during the period, the petitioner was served with the show cause notices, on one hand and, the respondents did not grant/extend her leave as per rules on the other hand and consequently the petitioner joined back her duties on 08.12.2023 and also submitted

medical certificates in support thereof, however, the petitioner was not permitted to mark her attendance for two days and was, in fact, harassed.

It is further stated that, in the meantime, the respondents had issued order dated 16.11.2023, in terms whereof, an enquiry officer, under Rule 15 of the Conduct Rules of The Bank, came to be appointed for holding departmental inquiry against the petitioner and that the said enquiry have had been ordered on the ground that the response filed by the petitioner to the show cause notices was not found to be satisfactory.

It is next stated that on 13.12.2023, however the petitioner was attached with Branch Office, Super Bazaar, Jammu with a direction to co-operate in the enquiry initiated vide order dated 16.11.2023 and that the petitioner participated in the said enquiry and explained her position thereto, while denying and refusing the allegations levelled against her, and that while the proceedings of the said enquiry were in progress, respondent No. 7 issued order of suspension dated 21.12.2023 and also on the very same date i.e., 21.12.2023 issued a charge sheet upon the petitioner, which came to be served on her on 22.12.2023 containing different charges which were never the grounds, on the basis of which, the show cause notices previously were issued to the petitioner and the petitioner was, in the said charge sheet, directed to respond to the same within a period of 07 days.

3. The petitioner herein has challenged both the order of suspension dated 21.12.2023 and also the charge sheet dated 21.12.2023 while maintaining the instant petition, *inter alia*, on the grounds that the

respondents have failed with impunity, to adhere to the principles of natural justice in the matter and have ordered the suspension of the petitioner as also holding of the enquiry pursuant to the charge sheet 21.12.2023 illegally, mala fide, aimed at to harm the reputation and service career of the petitioner, besides without any competence and jurisdiction, in as much as, in breach of the Rules of 1997 and that the allegations levelled in the charge sheet do not fall under Chapter-III Rule 02 of the Rules of 1997 and do not, *per se*, constitute a mis-conduct and that even the order of suspension dated 21.12.2023 has been issued in violation of Rules 3, 4 and 5 of the Rules of 1997 and that the impugned charge sheet does not contain the copy of articles of charge together with the statement of imputation *qua* the alleged misconduct, a prerequisite under the Rules of 1997, reiterating that the respondents have violated the principles of natural justice as also Articles 14, 16 and 21 of Constitution of India.

4. **Objections** to the petition have been filed by the respondents wherein, the petition is being opposed, *inter alia*, on the premise that petition is not maintainable, as the respondent-Bank is a society and not amenable to the writ jurisdiction of this Court and that the petitioner has an efficacious alternate remedy available under the J&K Cooperative Societies Act, 1989 before the Registrar and that, as such, the petition is not maintainable.

It is further stated that the petitioner has been rightly placed under suspension in terms of the order of suspension under challenge which

suspension is not a punishment and, as such, could not be challenged by the petitioner before this Court and that even the charge sheet framed against the petitioner has been rightly and lawfully framed by the respondents, as such, same as well could not be challenged by the petitioner at this stage, as the petitioner instead of replying the charge sheet has approached this Court through the medium of the instant petition.

It is also stated in the objections that respondents have proceeded against the petitioner in accordance with law in general and in terms of Rules of 1997, in particular, and that the charges framed in the charge sheet under challenge against the petitioner are subject to the outcome of the enquiry which the petitioner is not interested to face and has instead chosen to approach this Court without facing the said enquiry.

Heard learned counsels for the parties and perused the record.

5. It is not in dispute that the petitioner is an employee of the respondent-bank and the service conditions of the petitioner are governed and regulated by Jammu Central Co-operative Bank Employee Service Rules, 1997. Under Chapter-III and Rule 02, mis-conduct is defined as a breach of rules and regulations, instructions and standing orders of the Bank by an employee as also negligence, inefficiency or indolence or knowingly done anything detrimental to the interest of the Bank or anything contrary with its directives or a breach of discipline or any other acts of misconduct by an employee rendering him liable to penal action, while providing further that failure by an employee to observe Rule 01 of Chapter-II, which envisages that every employee of the bank

shall, at all times, take all possible steps to ensure and protect the interest of the bank and discharge duties with utmost integrity, honesty, devotion and diligence and shall do nothing which is unbecoming of a bank employee, shall also be treated as mis-conduct for the purposes of initiation of a disciplinary action under Chapter-III.

6. Under the same Chapter-III (supra), Rule 05 provides for suspension of an employee of the bank against whom serious allegations of misconduct are levelled and *prima facie* case in this regard is made out, detailing out therein the said rule, various circumstances which would entail suspension including the serious negligence and dereliction of duty by an employee resulting in the loss to the bank.
7. Under said Chapter-III (supra), Rule 13, provides for procedure for imposition of major penalties and under Rule 13.01.01, the framing and service of charge sheet is postulated and the said Rule, being relevant and germane to the controversy involved in the instant petition, is extracted and reproduced hereunder:-

13.01.01.....“Where after the preliminary investigation, the disciplinary authority comes to a conclusion that there is a prima facie case warranting a major penalty and provisionally decides to impose punishment against the erring officer. It shall draw up the substance of imputations of misconduct into definite and distinct articles of charges. It shall also prepare a statement of the imputations of the misconduct in support of each article of charges and a list of documents by which and a list of witnesses. If any by whom the articles of charges are proposed to be sustained. The charge sheet must be specific and it must set down all the relevant particulars regarding the alleged offence. The incidents, the date, time and the place where the incident took place. Each incident should form a separate charge and contain reference to relevant rules and regulations or where in any case. The alleged lapse is not

specified in the standing orders or rules. It should be mentioned in detail in the charge sheet so that it is clearly understood by the employee charge sheeted. The time within which the employee is required to reply the chargesheet should also be indicated therein.”

8. As has been noticed in the preceding paras, the petitioner has called in question the order of suspension as well as charge sheet dated 21.12.2023 and in so far as suspension of an employee is concerned, law is settled and is no more *res integra* that the employer/competent authority can order the suspension of an employee where the misconduct of the employees is under investigation in departmental proceedings or in contemplation thereof or is under examination before a Court of law, in that, an employee has an inherent power to suspend an employee while an enquiry is pending into his conduct or is sought to be contemplated and during the period of suspension, an employee is temporarily debarred by his employer for the time being from performing any of his duties, functions or enjoying certain privileges.
9. A Perusal of the Rules of 1997 (supra), in particular, Rule 05 contained in Chapter-III, pertaining to suspension tends to show that an employee of the Bank can be placed under suspension where the competent authority, *prima facie*, comes to a conclusion that there is a case warranting initiation of departmental inquiry against an employee of the Bank into the mis-conduct committed by the employee including for the acts of omission and commission constituting serious negligence and dereliction of duties, and the record available on the file as well as the impugned order of suspension, in particular, reveals that the respondent-

Bank has *prima facie* found the petitioner involved in mis-conduct and has, as such, ordered placing her under the suspension and even though the impugned order of suspension has been, *inter alia*, challenged on the ground that the same has been issued by an incompetent authority, however, a closer examination of the impugned order of suspension signifies that the same has been ordered pursuant to the order of the competent authority as is in the impugned order specifically expressed “*By order*”. The petitioner has not, however, spelt out in the petition as to why and how the impugned order is issued without any competence or jurisdiction, except that the same order have had to be issued by the Board of Directors. However, Rule 0.5(supra) pertaining to the suspension does not *per se* suggest anywhere that the suspension of employee a bank can be ordered only by the Board of Directors, as such, the plea of the petitioner *qua* the competence and jurisdiction of the issuance of the order of suspension is grossly misconceived and, as such, there being a strong presumption, in the absence of anything contrary shown by the petitioner, that the impugned order of suspension has been issued by the competent authority.

10. In so far as, the challenge thrown to impugned charge sheet dated 21.12.2023 by the petitioner is concerned, a closer examination of Rule 13.01.01 (supra) indisputably tends to show that the charge-sheet has to be accompanied with the substance of imputations of mis-conduct drawn up into definite and distinct articles of charges and that the competent authority framing a charge sheet shall also prepare a statement of the

imputations of misconduct in support of each of the articles of charge and a list of documents including a list of witnesses, while further stipulating that the charge sheet must be specific and must set down all the relevant particulars regarding the alleged offences, detailing out the incidents, dates, time and the place and that each incident should form a separate charge and contain a reference to relevant rules and regulations in order to enable the employee chargesheeted to clearly understand the charges levelled against him or her.

However, a deeper examination of the impugned charge sheet would suggest that the respondents have failed to draw and frame the charge sheet against the petitioner in tune with the Rule 13.01.01 and though the petitioner could have sought reframing and redrawing of the charge sheet in accordance with the said rule while filing a response to the said charge sheet, yet the petitioner, instead has chosen to approach this Court for seeking quashing of the charge sheet, besides, on the aforesaid ground also on the ground that the charges are vague and are not in tune with Rule 13.0.1.

This Court however refrains from making any observation or expressing any opinion as to the vagueness of the charge-sheet but instead having regard to the facts and circumstances of the case, deem it appropriate to settle the petition at this stage without expressing any such opinion *qua* the alleged misconduct of the petitioner, leaving it open for the respondent-bank to either supplement the charge sheet appropriately in accordance with the mandate of Rule 13.0.01 or else to

redraw and reframe the same in line there with the said rule, in order to enable the petitioner to respond to the charge sheet thereafter.

11. Accordingly, the petition, in so far as challenge thrown to the suspension order dated 21.12.2023 is dismissed and is however, allowed as above in so far as the challenge thrown to the charge sheet dated 21.12.2023 is concerned.

12. In so far as the plea of the counsel for the respondent bank *qua* the maintainability of the writ petition is concerned, same is not sustainable in view of the law laid down by the Division Bench of Apex Court in case titled “*Gujarat State Co-operative Land Development Bank Limited Vs. P. R. Mankad*” reported in **1979 (3) SCC 123** is concerned.

13. Disposed of.

(Javed Iqbal Wani)
Judge

Jammu
04.11.2025
Sushant

Whether the order is reportable: Yes

Whether the order is speaking: Yes