

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2463 OF 2024

Bank of India ...Petitioner
Versus
Union of India ...Respondent

Mr. K. Dev i/by Nahush Shah Legal, for the Petitioner.
Ms. Purnima Awasthi, for the Respondent No.1.
Mr. Niranjan P. Shimpi, for the Respondent No.3.

CORAM: SUMAN SHYAM &
ADVAIT M. SETHNA, JJ.

DATED: 24th AUGUST 2026.

PC:-

1. The Writ Petitioner herein is the Bank of India. It has approached this Court assailing the order dated 10th August, 2023 passed by the Respondent No.3 – Railway Claims Tribunal, Mumbai Bench in MA/MCC/39/2021 in OA (II U) MCC/29/2013, the operative part of which reads as follows:-

ORDER

1) This case, with the orders of the Tribunal, shall be put up to the Chairman, Bank of India, who will take appropriate action against the erring officials (i) Branch Manager, Wakadpada Branch, Bank of India responsible for non-compliance of specific orders dated 22-10-2019 and 05-08-2021

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and (ii) Shri Anil Jadhav, Zonal Manager, Bank of India, responsible for submitting a misleading compliance Report without looking at the factual position, justifying the wrong doing of Branch concerned.

2) Also, the Chairman, Bank of India shall issue suitable directions to all concerned to avoid recurrence of such scenarios.

3) The Bank shall submit a Report towards action taken in this regard within one month from the date of receipt of this order.

4) ADR/RCT is directed to forward a copy of this order to the Chairman of Bank of India for suitable action. After receipt of the compliance Report from the Bank, he shall put up the case before this Bench.

2. From a bare reading of the operative part of the order dated 10th August, 2023, it is apparent that the direction issued therein is primarily on account of the fact that according to the learned Tribunal, the Bank has failed to comply with the orders dated 22nd October, 2019 and 5th August, 2021 for which, the Bank Manager was held to be responsible.

3. By referring to the order dated 10th August, 2023, Mr. K. Dev, learned counsel appearing for the Petitioner submits that the Respondent No. 2 i.e. the Claimant had withdrawn the entire amount from the bank prior to 23rd February, 2023. On 23rd

February, 2023, a communication was also issued by the Claimant to the effect that he had no complaint against the Wakadpada branch of the Bank of India. Notwithstanding the same, submits Mr. Dev, the learned Tribunal had passed the impugned order directing disciplinary action to be taken against the Branch Manager, in a manner which is completely unfair, arbitrary and illegal. It is also the submission of the learned counsel for the Petitioner, that by the statements made in paragraph No.3.13 of the Writ Petition, although the correct facts were brought to the notice of the learned Tribunal, yet, the relevant documents were neither taken on record nor were such facts considered before passing the impugned order. Under such circumstances, the Petitioner's counsel submits that the impugned order is liable to be set aside by this Court.

4. In response to the above arguments, Mr. Niranjan P. Shimpi, learned counsel appearing for the Respondent No.3 has argued that the impugned order was passed by the learned Tribunal, for the ends of justice and in exercise of powers conferred under Rule 35 of the Railway Claims Tribunal(Procedure) Rules 1989(**the Rules of 1989**), as otherwise the order of the learned Tribunal would not

be complied with and the Tribunal would be rendered completely toothless. According to the learned counsel, the exercise of such jurisdiction would enable the Tribunal to effectively discharge its judicial functions by ensuring compliance of its order(s).

5. We have considered the submissions made at the Bar and have also gone through the material on record.

6. It appears that the learned Tribunal had earlier passed judgment and order dated 22nd October, 2019, awarding a sum of Rs.8,00,000/- in favour of the Claimant with a further direction that the Claimant shall be permitted to withdraw Rs.1,00,000/- and remaining Rs.7,00,000/- to be invested in the bank in the form of fixed deposits.

7. On 5th August, 2021, the learned Tribunal had passed certain directions indicating the manner in which the Claimant should be permitted to withdraw some amounts for repair of the house.

8. As noted above, the impugned order has been passed on the ground that the order dated 22nd October, 2019 and 5th August, 2021 have not been complied with by the then Manager of the

Bank, viz., Mr. Anil Jadhav, who was held to be responsible for the same. However, a perusal of the communication dated 23rd February, 2023 issued by the Claimant goes to show that the entire amount had already been withdrawn by the Claimant from the Bank prior to issuance of the impugned order dated 10th August, 2023.

9. A perusal of the statements made in the Writ Petition further goes to show that in paragraph No.3.13, the Petitioner has made the following statements:-

3.13 However, Respondent No.3 found the said compliance report unsatisfactory. The Petitioner on the date of the hearing i.e. on 10th August, 2023 sought to file a detailed compliance report, however, Respondent No.3 rejected the request of the Petitioner. Furthermore, the Petitioner and its advocate attempted to make submissions in regards to the inadvertent non-compliance of the Order on account of the situation prevailing in the branch and sought an apology for non-compliance of the Orders dated 22nd October, 2019 and 5th August, 2021, however, Respondent No.3 refused to entertain any submissions made by the Petitioner. The Petitioner even sought to produce the aforesaid letter dated 23rd February, 2023 addressed by the Respondent No.2 to the Petitioner before the Respondent No.3 but Respondent No.3 dismissed all the submissions of the Petitioner and proceeded to pass the said Impugned Order dated 10th August, 2023 directing the Chairman of the Petitioner Bank to take appropriate action against the erring officials of the Petitioner

Bank and further issue such directions to all concerned to avoid recurrence of such scenarios. The Respondent No.3 further directed the Petitioner to submit yet another report towards action taken in regard to the aforesaid directions within a month from date of receipt of the said Order. Hereto marked and annexed as "Exhibit F" is a copy of the said Impugned Order dated 10th August 2023.”

10. No reply has been filed on behalf of the Respondent No.3 to deny the above assertion. Therefore, such statements made by the Writ Petitioner must be deemed to be correct.

11. If that be so, we are of the opinion that the learned Tribunal has passed the impugned order by ignoring the intermittent developments, which included withdrawal of the amount by the Claimant, thus indicating substantive compliance of the order dated 22nd October, 2019, as well as order dated 5th August, 2021 passed by the learned Tribunal.

12. Mr. Shimpi, has relied upon Rules 35 and 44 of the Rules of 1989 which read as follows:-

“35. Orders or directions by the Tribunal-The Tribunal may pass such orders or give such directions as may be necessary or expedient to give effects to its orders or to prevent abuse of its process or to secure the ends of justice.”

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“44. Inherent powers of the Tribunal-Nothing in

these rules shall be deemed to limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for the needs of justice or to prevent abuse of the process of the Tribunal.”

13. It is correct that under Rule 44 the learned Tribunal would have inherent powers to issue order for the purposes mentioned therein which may include the purpose of ensuring compliance of its order. However, in order to exercise such powers, the relevant facts and circumstances of the case would have to be taken note of. In a matter where the order(s) of the Tribunal had been apparently implemented, there was no justification, for the learned Tribunal to issue the directions by the impugned order dated 10th August, 2023. Moreover, whether the bank official was guilty of misconduct or not, is a matter entirely for the disciplinary authority to take a decision on. Therefore, we are of the view that, it was not correct for the learned Tribunal to issue a direction to the Managing Director of the Bank to act in a particular manner, directing that action should be taken against the Manager. If at all necessary in the facts of the case, a direction could have been issued by the learned Tribunal for compliance of its order and no further.

14. For the reasons stated hereinabove, we are of the view that the Petitioner has made out a good case for interference with the impugned order by this Court.

15. Impugned order dated 10th August, 2023 is therefore, set aside.

16. The Writ Petition stands allowed.

17. Parties to bear their own costs.

(ADVAIT M. SETHNA, J.)

(SUMAN SHYAM, J.)