

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7571 OF 2014

Anand Prabhakar Joshi

.. Petitioner

Versus

Bank of Maharashtra

.. Respondent

Mr. Anand Prabhakar Joshi, Petitioner-in-person.

Mr. Dhananjay J. Bhanage, for Respondent.

CORAM : R.M. SAVANT, J.

DATE : 09th FEBRUARY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 21.07.2014 passed by the Learned Civil Judge, Senior Division, Pune, by which order the application Exh.327 filed by the Petitioner/original Plaintiff for Review of the order dated 19.06.2014 passed on Exh.305 came to be rejected.

2. The Petitioner herein was a employee of the Respondent Bank whose services came to be terminated pursuant to a Departmental Enquiry held against him. The Petitioner has filed the instant suit being Special Civil Suit No.40 of 2000 claiming various reliefs relating to the termination of his services viz. Compensation for the arbitrary, malafide

and unlawful acts against the Plaintiff, for a declaration that the order dated 01.10.1996 on charge-sheet dated 14.09.1995 is illegal and void, the aforesaid are two of the reliefs amongst the reliefs that are claimed in the suit. In the said suit, 6 issues which are to the following effect came to be framed-

“1) Does plaintiff proves that the defendant is liable to pay the compensation to him for his arbitrary malafide and unlawful acts against him ?

2) Does plaintiff prove that the order dated 1/96 is illegal and void-ab-initio benefit of any legal consequences and the plaintiff is deemed to be in service of the defendant ?

3) Is plaintiff entitled for compensation and declaration as sought for ?

4) What relief ?

In view of order below Ex-68 additional issue is framed as under :-

5) Whether suit is within limitation

In view of order passed below Ex-74 additional issue is framed :-

6) Whether the Plaintiff has valued the suit property ? If not, effect of it ?”

Thereafter the Trial Court vide order dated 05.06.2013 framed additional 4 issues as according to the Trial Court the issues that were framed were not sufficient to decide the real controversy between the parties. The said 4 issues are follows :-

“1) Whether enquiry in to chargesheet dt. 24/1/1992 and 14/9/1995 hold against the plaintiff are not fair and

proper?

- 2) Whether punishment awarded to the plaintiff is harsh and disproportionate to the alleged/proved misconduct ?
- 3) Whether plaintiff is deemed to be in service of the defendant bank ?
- 4) Whether plaintiff is entitled for the benefit under the voluntary retirement scheme introduced by the bank ?”

The Petitioner had thereafter filed the application Exh.305 thereby claiming that 22 additional issues are required to be framed. A perusal of the said issues show that they are myriad issues relating to the charge-sheet etc. in the Departmental Enquiry which was held against the Petitioner. The Trial Court has rejected the said application Exh.305 by order dated 19.06.2014. The Trial Court in the said order has mentioned the reasons as to why the said application Exh.305 is required to be rejected. Suffice it to state that the Trial Court has rejected the said application on the ground that by the proposed issues the Plaintiff is challenging the order passed in the Departmental Enquiry conducted by the inquiry authorities. The framing of the issues sought by the Petitioner was objected to on behalf of the Defendants on the ground that the Court does not sit in Appeal over the domestic inquiry. The Trial Court has further adverted to the contention urged by the Defendant Bank namely that the issue No.2 and the additional issues No.1 and 2 will cover proposed issues No.3 to 8. That additional issues No.9 to 16 and 20 are covered in additional issues No.1 to 4. In so far as issues No.17, 18 and 19

are concerned, the Trial Court has adverted to the fact that the said issues are legal points which can be argued even without framing specific issues on that subject and that issues No.21 and 22 as suggested by the Plaintiff are already covered in the previous issues framed by the Court. The Trial Court has further concluded in paragraph 6 that the issues which have been framed would cover proposed issues as suggested by the Plaintiff in the application. The Trial Court has lastly observed that it is also the privilege of the Court to decide whether any additional issue is required or not, even at the time of judgment. The Petitioner/Plaintiff thereafter filed application Exh.327 for review of the said order dated 19.06.2014 on the grounds mentioned in the said application. The Trial Court rejected the said application Exh.327. In so far as the order passed on Exh.327 is concerned i.e. the impugned order dated 21st July, 2014 passed on Exh.327, the same also does not merit any interference at the hands of this Court in its Writ Jurisdiction, as the Trial Court was right in recording that no case for review under any of the eventualities mentioned in Order 47 of the CPC is made out. In my view, having regard to the mandate of Order 14 of the CPC as also having regard to the nature of the dispute involved in the suit which relates to the termination of the services of the Petitioner/Plaintiff pursuant to the Departmental Enquiry, the order passed by the Trial Court holding that the issues framed are sufficient cannot be

found fault with.

3. The reliance placed by the party in person on the judgment of the Apex Court reported in **AIR 1963 SC 884(1)** in the matter of **Nedunuri Kameswaramma Vs. Sampati Subba Rao** (annexed as Exh.Y to the Petition) is misplaced. The said judgment would have no application in the facts of the present case where the Trial Court has observed that the issues framing of which was sought by the Plaintiff were not necessary as they are covered by the issues which are already framed. The Apex Court in the facts of the case before it observed that merely because an issue was not framed the dismissal of the suit was not warranted nor a remit of the suit. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]