

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

W.P.(C).No.16751 of 2005 (T)

PETITIONER(S):-

AYYAPPAN,
KUNNEL HOUSE, THEKKEMURI, EAST KALLADA P.O.,
KOLLAM.

BY ADV. SRI.R.PREMCHAND.

RESPONDENT(S):-

1. ZONAL MANAGER,
PUNJAB NATIONAL BANK, SOUTH ZONE,
DISCIPLINARY AUTHORITY, ZONAL OFFICE, MADRAS.
2. GENERAL MANAGER (PERSONNEL),
PUNJAB NATIONAL BANK, APPELLATE AUTHORITY,
H.O. 7, BHIKHAJI KAMA PLACE, NEW DELHI-110 066.
3. CHAIRMAN & MANAGING DIRECTOR,
PUNJAB NATIONAL BANK, REVIEWING AUTHORITY,
H.O.7, BHIKHAJI KAMA PLACE, NEW DELHI-110 066.
4. PUNJAB NATIONAL BANK,
REPRESENTED BY THE CHAIRMAN, BOARD OF DIRECTORS,
H.O.7, BHIKHAJI KAMA PLACE, NEW DELHI-110 066.

R1 TO R4 BY ADVS. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 PHOTOSTAT COPY OF THE ORDER OF SUSPENSION
DATED 14.8.90 ISSUED BY THE SENIOR REGIONAL
MANAGER, BANGLORE, PUNJAB NATIONAL BANK.
- EXT.P2 PHOTOSTAT COPY OF THE CHARGE MEMO ALONG WITH
THE STATEMENT OF IMPUTATIONS IN RESPECT OF
CHARGES DATED 10.7.92.
- EXT.P3 PHOTOSTAT COPY OF THE BRIEF SUBMITTED BY THE
PRESIDING OFFICER TO THE ENQUIRY OFFICER,
COPY OF WHICH WAS FURNISHED TO THE PETITIONER,
DATED 15.2.94.
- EXT.P4 PHOTOSTAT COPY OF THE ENQUIRY REPORT DATED 16.3.94.
- EXT.P5 PHOTOSTAT COPY OF THE ORDER OF DISCIPLINARY
ACTION CELL PUNJAB NATIONAL BANK, ZONAL OFFICE,
MADRAS DATED 20.4.1994.
- EXT.P6 PHOTOSTAT COPY OF LETTER DATED 20.12.1989 WRITTEN
BY THE THEN MANAGER TO THE SENIOR REGIONAL
MANAGER, BANGLORE.
- EXT.P7 PHOTOSTAT COPY OF THE ORDER DT.14.11.1994.
- EXT.P8 PHOTOSTAT COPY OF THE ORDER DT.26.4.1995.
- EXT.P9 PHOTOSTAT COPY OF THE JUDGMENT IN
O.P.13736/95 DT.3.2.2003.
- EXT.P10 PHOTOSTAT COPY OF THE ORDER PASSED BY THE
2ND RESPONDENT DATED 10.7.03.
- EXT.P11 PHOTOCOPY OF THE ORDER DATED 7.9.2004.

RESPONDENT'S EXHIBITS:-

NIL.

Vku/

[true copy]

K.Vinod Chandran, J.

W.P.(C).No.16751 of 2005-T

Dated this the 20th day of October, 2015.

JUDGMENT

The petitioner challenged Exhibit P10 order of the Appellate Authority, by which, on an enquiry proceeded against the petitioner for misconduct of dereliction of duty, the petitioner was imposed with a punishment of reduction “to two lower stages for a period of two years with the direction that he would not earn any increment during the period of reduction and that such reduction would have the effect of postponing his future increments”.

2. The background facts need not be referred to, since the entire issue was dealt with in Exhibit P9 judgment. The petitioner was proceeded with on charges of dereliction of duty on the following grounds:

- (i) He did not conduct proper pre-sanction appraisal and failed to observe post sanction safeguard in the loan transaction which jeopardized Bank's interest.
- (ii) He failed to discharge his duties with utmost diligence and devotion in recommending advances which jeopardized Bank's interest.

3. The petitioner's explanation was that he had acted under the instructions of the Manager, who was an accused in a case under the Prevention of Corruption Act, 1988 and convicted. The gist of the contention against the petitioner before the Enquiry Officer was also only with respect to the gross dereliction of duty insofar as sanctioning loans, which, even if directed by the Manager, the petitioner, as the Disbursing Officer, has to oversee and monitor.

4. The disciplinary proceedings ended in the punishment of removal. That was challenged in Exhibit P9, which resulted in the petitioner having been relegated back to the Appellate Authority. The findings in the enquiry were upheld by Exhibit P9 judgment. This Court only relegated the petitioner to the appellate remedy, since the guidelines prescribed that, the appellate authority also ought to look at the proportionality of the punishment. The appellate authority and the reviewing authority having not at all examined the issue of the proportionality of the punishment imposed with reference to the gravity of the proved charges, it was directed that such a consideration shall be

made. On such consideration, Exhibit P10 was passed, wherein the afore-cited punishment was awarded. The punishment now imposed cannot be interfered with and it cannot be said that it was disproportionate to the gravity of the offence.

5. True, the petitioner had remained out of service between the aforesaid period, i.e., between 26.04.1994 to 16.07.2003. The said period was directed to be treated as extraordinary leave on loss of pay. The petitioner challenges Exhibit P10 order and the order at Exhibit P11 of the reviewing authority. It is to be noticed that charges were levelled against the petitioner. The same were upheld by Exhibit P9 judgment. The only issue referred to the appellate authority was a consideration of the proportionality, which was considered and the petitioner's punishment drastically reduced. It is also submitted by the learned counsel for the respondent-Bank that the petitioner had been reinstated in service and has also now retired. The petitioner having not worked for the period, since he was out of service for reason of the earlier order of removal from service, the petitioner cannot have any claim for payment of

salary during the said period. This Court does not find any reason to interfere with Exhibits P10 and P11.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran,
Judge

vku.

[true copy]