IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1934 of 2018

K.B.Muraleedharan ... Appellant

-vs-

1.The Assistant General Manager,
Canara Bank, Circle Office,
HRM Section, No.196, T.V.Swamy Road,
R.S.Puram (W), Coimbatore-640 002.

2.The General Manager,
Disciplinary Authority,
Canara Bank, Head Office,
Industrial Relation Section,
Personal Wing, 112, J.C.Road,
Bangalore-2. ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.18013 of 2013 dated 28.02.2017. Petition filed under Articel 226 of the constitution of India praying for a writ of certiorarified Mandamus calling for the records culminating the impugned order of the Disciplinary Authority 2nd respondent dated 20.8.2009 in proceedings No.IRS/DP/ LC/CB/ 247/09 and quash the Findings dated 4.3.2009 submitted by the Inquiry Authority and the order dated 20.8.2009 passed by the Disciplinary Authority and consequently direct the 2nd respondent to order reinstatement of the petitioner with all attendant;

For Appellant :: Mr.K.Sridhar

For Respondents:: Mr.P.Amirtharaj

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

Originally, the appellant joined as a Clerk in the respondent bank on 16.06.1983 at Kasaragod Branch. Thereafter, he got promotions as Officer and Manager. When he working as Manager in R.S.Puram Branch, Coimbatore in the year 2007, the second respondent issued a charge sheet dated 17.09.2008 to him for having allegedly committed certain irregularities in discharge of his duties in operating his Overdraft Account maintained at Nirpura Branch and also for demanding and accepting illegal gratification from borrowers for sanction of loans. Pending enquiry, he was placed under suspension by an order dated 13.03.2009. An inquiry officer was appointed to conduct an enquiry, who, after completing the inquiry, submitted a report holding that the charges levelled against the appellant were partly proved. Thereafter, the second respondent / disciplinary authority, accepted the report of the inquiry officer and imposed a punishment of removal from service on 20.08.2009 in terms of Regulation 4(1) of Canara Bank Officer Employees' (Discipline and Appeal) Regulations, 1976. Aggrieved by the same, the appellant filed an appeal in terms of Regulation 17 of Canara Bank Officer Employees' (Discipline and Appeal) Regulations, 1976 before the Appellate Authority, who, on consideration of the appeal preferred by the appellant, modified the punishment of removal from service into one of 'compulsory retirement' in terms of Regulation 4(h) of Canara Bank Officer Employees' (Discipline and Appeal) Regulations, 1976. Against the order of compulsory retirement, the appellant preferred a Review Petition before the Reviewing Authority and claimed for reinstatement in service. However, the same was rejected on 02.12.2010. Thereafter, on 18.08.2010, the appellant submitted a representation to the Chairman and Managing Director of the respondent bank to re-consider the entire matter and to reinstate him in service, but the same was also rejected. A mercy petition filed by the appellant to the Chairman and Managing Director of the Bank, also got rejected on 03.10.2012.

2.In these circumstances, the appellant filed a writ petition before this Court in W.P.No.18013 of 2013 praying to quash the order dated 20.08.2009 passed by the second respondent / Disciplinary Authority and also to quash the findings dated 04.03.2009 submitted by the Inquiry Authority and to consequently direct reinstatement of the appellant into service.

3.The learned single Judge, considering the facts and circumstances of the case, set aside only the order dated 03.10.2012 rejecting the mercy petition made by the appellant with a direction to consider the same and pass appropriate orders on merits and in accordance with law, by order dated 28.02.2017.

4.Challenging the order passed in the writ petition, the present appeal has been filed.

5.The learned counsel for the appellant has submitted that in respect of the charge of credit by cash in different accounts by the appellant and making entries in his OD Account, the appellant has already explained the money transactions done by him. Further, in respect of the charge as regards the demand and acceptance of illegal gratification for sanction of loans and other matters, all the three witnesses examined by the bank confirmed that no bribe was paid to the appellant for sanction of loans. Thus, when there is no evidence against the appellant, it is not correct on the part of the respondent bank to punish the appellant.

6.The learned counsel for the respondent Bank has submitted that the appellant has not challenged the findings rendered by the Enquiry Officer. He further submitted that the appellant has received a total sum of Rs.64,000/- as illegal gratification and the said sum was not received in one stroke, rather small amounts were received in regular intervals, which amounted to the said sum.

7.Heard the learned counsel on either side and perused the materials available on record.

8.It appears that the appellant has not challenged the findings rendered by the Enquiry Officer. Further, according to the learned counsel for the respondent Bank, the appellant has received a total sum of Rs.64,000/- as illegal gratification and the said sum was not received in one stroke, rather small amounts were received in regular intervals, which amounted to the said sum. It appears that at the time when the order was passed against the appellant for compulsory retirement, the age of the appellant was 46. But when we now enquired the learned counsel for the appellant, he submitted that about 10 years of service is left, but the learned counsel for the bank submitted that only a service of 3 years is remaining for the appellant.

9.In view of the above stated circumstances and also considering the entire facts and circumstances of the case, we are not inclined to interfere with the impugned order passed by the learned single Judge, as the said order has been passed in detail, considering all the facts and circumstances of the case. However, the authority concerned to deal with the mercy petition shall consider the mercy petition made by the appellant and appropriate orders be passed on merits and in accordance with law, as directed by the learned single Judge.

10.The writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Assistant General Manager,
   Canara Bank, Circle Office,
   HRM Section, No.196, T.V.Swamy Road,
   R.S.Puram (W), Coimbatore-640 002.

2.The General Manager,
   Disciplinary Authority,
   Canara Bank, Head Office,
   Industrial Relation Section,
   Personal Wing, 112, J.C.Road,
   Bangalore-2.

+ 1 cc to Mr. P. Amirtharaj, Advocate Sr.68948

W.A.No.1934 of 2018

JP(CO)
EU(31/10/2018)