

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.47016 of 2006

A. Perumal

... Petitioner

versus

1. Indian Overseas Bank
Central Office, IV Floor,
Main Building, 763, Anna Salai,
Chennai - 600 002.
2. Appellate Authority cum
Deputy General Manager,
Indian Overseas Bank, P.B. No.3765
Central Office, 763, Anna Salai,
Chennai - 600 002.
3. The Disciplinary Authority,
Chief Officer,
Inquiry Cell IRD,
Indian Overseas Bank,
P.B. No.3765, 763, Anna Salai,
Chennai - 600 002.
4. The Deputy General Manager (PAD),
Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai - 600 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 3rd respondent in INQ/IRD/213, dated 12.07.2004 as confirmed by the Appellate Authority, the 2nd respondent in DGM (PR) / AA/IR/417, dated 20.09.2004 and the consequential order

For Petitioner : Mr.K.V.Sundararajan

For Respondents : Mr.N.G.R. Prasad for R2 to R4

O R D E R

The petitioner has filed the present writ petition, challenging the order of punishment of 'Compulsory Retirement' (with superannuation benefits), dated 12.07.2004, which was confirmed by the Appellate Authority i.e., 2nd respondent on 20.09.2004 and the consequential order dated 21.06.2005.

2. The case of the petitioner is as follows :-

The petitioner was appointed as Clerk in the respondent bank from 17.09.1982 and posted in Ilayankudi Branch, Madurai. While he was working at Lakshmipuram Branch, he was issued with a charge memo stating that he has borrowed a sum of Rs.80,000/- from one V. Ramaraj, for which the petitioner had issued a cheque for the borrowed amount. However, the cheque issued in favour of the said Ramaraj, when presented for clearing, returned with an endorsement "insufficient funds". Therefore, the said Ramaraj sent a legal notice to be issued under Section 138 of the Negotiable Instruments Act and, since there was no proper reply from the petitioner, a case was filed on the file of the Judicial Magistrate, Bodinayakanoor in CC No.182 of 2000. After trial, the petitioner was found guilty and was convicted vide order dated 21.09.2001. Aggrieved by the said order, the petitioner preferred appeal before the learned Principal Sessions Judge, Madurai in CA No.200 of 2001. However, on his conviction, the petitioner was placed under suspension and was issued with a charge memo stating that the petitioner had violated Section 10 of the Banking Regulation Act, 1949.

3. After receipt of explanation from the petitioner and after affording opportunity, the petitioner was found guilty and terminated from service. Against the said order, the petitioner preferred appeal, in which the appellate authority, considering the facts and circumstances, modified the punishment to one of compulsory retirement with superannuation benefits, holding that the petitioner has voluntarily accepted the guilt and the overall circumstances warrants imposition of the above punishment.

4. However, pending the disciplinary proceedings, in the pending criminal appeal, based on the compromise arrived at between the petitioner and the complainant, Ramraj, the sentence was compounded. On the disposal of the criminal appeal, the petitioner preferred a review petition to the respondents, which was also rejected by the respondents. Hence, the petitioner has filed the present writ petition.

5. Consequent upon the punishment of compulsory retirement imposed on the petitioner, the petitioner has been paid the terminal benefits, which has been received by the petitioner. Further, one-third of the pension amount has been commuted by the petitioner and the benefit towards the said commutation has also been paid to the petitioner.

6. From the above, it is evident that the petitioner has accepted the punishment of compulsory retirement and has not only received the terminal benefits, but also the pensionary benefits, including commuting a portion of the pension. The petitioner having received the terminal benefits and pensionary benefits, including commutation, as an afterthought, has filed the present petition claiming to set aside the compulsory retirement and also for reinstatement along with backwages and other benefits.

7. From an overall consideration of the matter, this Court is of the considered opinion that the petitioner having accepted the punishment and received all the benefits, including pension, cannot, at this belated stage, knock on the doors of this Court claiming the relief of reinstatement with backwages. The prayer as made by the petitioner is not sustainable and the writ petition deserves to be dismissed.

8. For the reasons aforesaid, this writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

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Main Building, 763, Anna Salai,
Chennai - 600 002.

2. Appellate Authority cum
Deputy General Manager,
Indian Overseas Bank, P.B. No.3765
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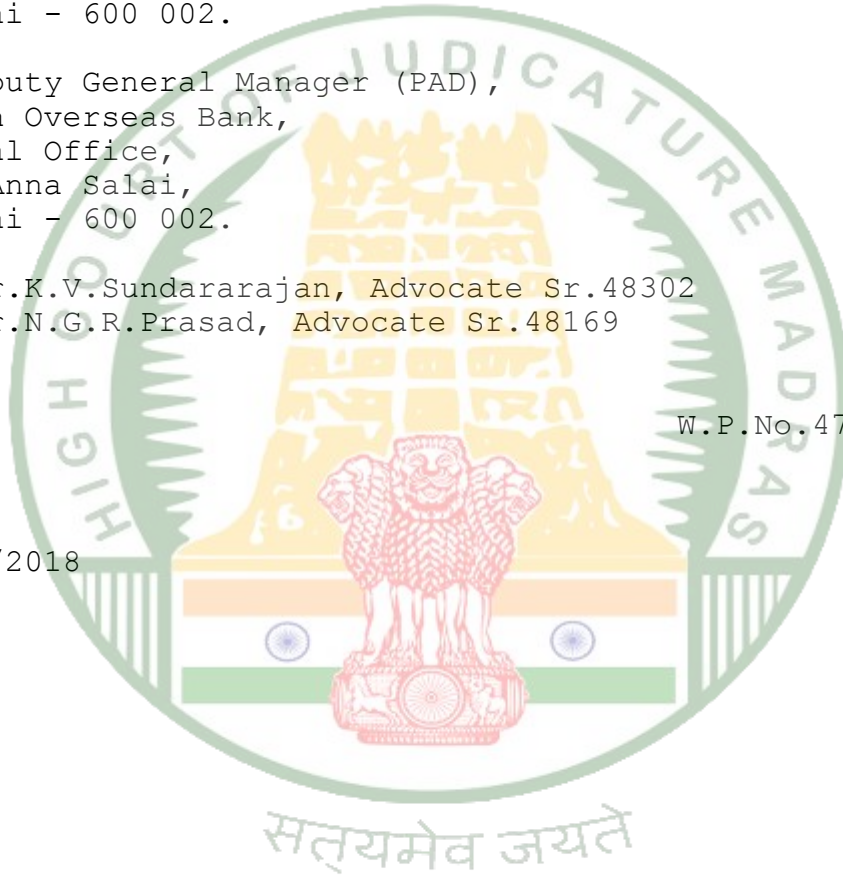
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4. The Deputy General Manager (PAD),
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+1cc to Mr.K.V.Sundararajan, Advocate Sr.48302
+1cc to Mr.N.G.R.Prasad, Advocate Sr.48169

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ks[co]
srg 14/09/2018



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