IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.10847 of 2005

Kalaiselvi ... Petitioner

Vs

1.The Deputy General Manager/
Disciplinary Authority,
Indian Bank, Circle Office,
No.359, Dr.Nanjappa Road,
Coimbatore - 641018.

2.The General Manager(IAE)/
Appellate Authority,
Indian Bank, Head Office,
66, Rajaji Salai,
Chennai - 1. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondents in connection with the impugned orders passed by the respondents 1 & 2 in Ref No:CO:CBE:VG:2003:149 Dated 10/05/2003 and PRL:DPC:GEN:2233:2004 dated 20/05/2004 respectively and quash the same and further direct the respondents to reinstate the petitioner into service with all consequential service and monetary benefits.

For Petitioner : Mr.V.Ashok Kumar

For Respondents: Ms.Rita Chandrasekar
for M/s.Aiyar & Dolia

O R D E R

The instant writ petitioner challenges the orders dated 10.05.2003 and 20.05.2004. The order dated 10.05.2003 of respondent no.1 imposes the punishment of dismissal from service and the order dated 20.05.2004 of the respondent no.2 confirms the order dated 10.05.2003.

2.The petitioner was working as a clerk in Indian Bank. The petitioner was working in the Coimbatore main branch in the year 1999. There were allegations of misappropriation in the said branch against the staff. The petitioner was served with a charge memo containing 2 charges on 25.02.2000. Another memo dated 18.03.2000 was given to him which contained 3 additional charges. A third memo containing three more charges was issued to him on 26.05.2000. The petitioner gave explanations to all the three charges. Not satisfied with the explanations, the Disciplinary Authority issued a charge memo, dated 12.12.2000, containing the following seven charges against the petitioner:

"1. (a)That while you were working as Clerk in Clearing Section in Coimbatore Main Branch, you had, on 06.09.99 dishonestly gained unauthorized access to the computer terminal of Mr.A.Anandan(Clerk/Shroff in Term Deposits Section) and debited a forged withdrawal slip bearing No.776958 for Rs.20000/- in SB Account No.18883 of Mr.K.Srinivasan and Mrs.K.KJrishnaveni Srinivasan (E or S) through that computer terminal and also entered the batch numbers deceitfully.

b)That you had, under the guise of rendering better customer service caused the above fraudulent withdrawal passed by Mr.R.Palanisami, Manager and also managed to obtain its cash payment from Mr.N.E.Narayanan, Payment Cashier.

Misusing your position of being a staff of the branch, you had been instrumental in making the above fraudulent withdrawal and thereby causing the bank financial loss to an extent of Rs.20000/-

2.That while you were working as Clerk in Clearing Section in Coimbatore Main Branch, you had on 07.09.99, unwarrantedly debited a forged SB withdrawal slip for Rs.10000/- in SB account No.18889 of Mrs.K.Mala and under the guise of rendering better customer service, you had taken the debited intrument to Mr.R.Vasudevan, Asst. manager and caused him to pass the instrument by your misrepresenting him that the party was known to you and that there would be no need to verify the speciment signature and had thus been instrumental in fraudulently drawing the above amount from the above SB account.

3.That you had again on 16.10.99, unwarrantedly debited an amount of Rs.10000/- in SB account No.18889 of Mrs.K.Mala through the computer terminal held by you in clearing section and had thus exposed the bank to financial loss of Rs.10000/- for the withdrawal transpired to be a fraudulent one.

4.That while you were working as Clerk/Shroff in CMC Extension Counter (Attached to Coimbatore Main Branch) you had on 06.01.2000, debnited a forged withdrawal slip for Rs.4000/- in SB account no.805 of Mrs.M.Rajamani and caused the same to be passed for payment by Mr.K.N.Sugavanam, Assistant Manager, by your misrepresenting him that the party was known to you and that she had asked you to collect payment on her behalf. Also you had received cash payment thereof and acknowledged its receipt on the reverse of the forged withdrawal slip. You had thus been instrumental in defrauding the bank to the tune of Rs.4000/-

5.That while you were working as Payment Cashier in Coimbatore Main Branch, you had on 13.09.99, made payment of a forged withdrawal Slip for Rs.30000/- in SB account No.19447 of Kasthuri Rangalan, without verifying whether the instrument had been passed by an officer of the branch and also without proper identification of the presentor of the instrument and had thus made the bank to incur financial loss of Rs.30000/- (for the withdrawal transpired to be a fraudulent one)

6.That you had on 05.08.99, made payment of a forged withdrawal Slip for Rs.30000/- in SB account No.11646 of M.K.Meenakshi and M.K.Subramaniam, without proper identification of the presentor of the Instrument and had thereby exposed the bank of financial loss of Rs.30000/- (for the withdrawal transpired to be a fraudulent one).

7.That while you were working as Teller in Cash Department in Coimbatore Main Branch, you had on 16.08.99, paid a SB withdrawal slip for Rs.4000/- drawn in Sb account No.11749 of Mr.D.Krishnamoorthy, without verifying /tallying the signature of the drawer of the Instrument with the specimen signature and without proper identification of the presentor as required of you and had thereby exposed the bank to financial loss of Rs.4000/- (for the withdrawal transpired to be a fraudulent one)."

3.A detailed explanation was given by the petitioner. Not satisfied with the answers an Enquiry Officer was appointed to conduct enquiry against the charges leveled against the petitioner. The petitioner participated in the enquiry proceedings. The Enquiry Officer after considering all the materials found 6 charges to be proved. The Disciplinary Authority went through the enquirty report and concurred with the findings of the Enquiry Officer. The Disciplinary Authority passed the following order:

Charge No.1 of Charge Sheet dt. 12.12.2000	Dismissal without notice in terms of Clause 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.

Charge No.2 of Charge Sheet dt. 12.12.2000	Dismissal without notice in terms of Clause 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt. 10.04.2002.
Charge No.3 of Charge Sheet dt.12.12.2000:	Dismissal without notice in terms of Clause 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt. 10.04.2002
Charge No.4 of Charge Sheet dt.12.12.2000:	Dismissal without notice in terms of Clause 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.
Charge No.5 of Charge Sheet dt.12.12.2000:	Be brought down to lower stage in the scale of pay by one stage for a period of one year in terms of Clause 6(e) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.
Charge No.6 of Charge Sheet dt.12.12.2000:	Be brought down to lower stage in the scale of pay by one stage for a period of one year in terms of Clause 6(e) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.
Charge No.7 Charge Sheet dt.12.12.2000:	Be brought down to lower stage in the scale of pay by one stage for a period of one year in terms of Clause 6(e) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.
Charge framed vide Charge Sheet dt.27.12.2000:	Dismissal without notice in terms of Clause 6(a) of the Memorandum of Settlement on Disciplinary Action Procedure for Workmen dt.10.04.2002.

4. This order was passed after considering the representations given by the petitioner against the findings

given by the Enquiry Officer in the Enquiry Report. The petitioner thereafter filed an appeal. The Appellate Authority by its order dated 20.05.2004 confirmed the findings of the Disciplinary Authority. It is this order which is under challenge in the instant writ petition.

5.Heard, the learned counsel for the parties.

6.The learned counsel for the petitioner was not able to substantiate that the decision making process has been conducted in violation of principles of natural justice. He was also not able to show any perversity in the findings of the Enquiry Officer or in the conclusions arrived at by the Disciplinary Authority and the Appellate Authority. Though in the grounds of appeal, it has been stated that opportunity to cross-examine the witnesses presented by the Department was not given, there is no material to substantiate the same and there is nothing on record to show that the petitioner did ask for an opportunity to cross examine the witness.

7.In the absence of any material on record to show that the decision making process was in violation of principles of natural justice and in absence of any material to show that the findings arrived at by the Enquiry Officer are completely perverse in nature, this Court in its jurisdiction under Article 226 of the Constitution of India cannot go into excruciating details on facts to arrive at a conclusion which is different from the findings of the Enquiry Officer and the Appellate Authority just because another conclusion can be arrived at.

8.The writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

tsg

To

1.The Deputy General Manager/
Disciplinary Authority,
Indian Bank, Circle Office,
No.359, Dr.Nanjappa Road,
Coimbatore - 641018.

2.The General Manager(IAE)/
Appellate Authority,
Indian Bank, Head Office,
66,Rajaji Salai,Chennai - 1.

+1cc to M/s.Aiyar and Dolia , Advocate SR.No. 84461
+1cc to Mr.N.Stalin , Advocate SR.No. 84373

W.P.No.10847 of 2005

A.SK(05/12/2019)