IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.28754 of 2003

M.Ramasamy ... Petitioner

Vs

1. Zonal Manager & Disciplinary Authority,
   Vigilance Department,
   Indian Bank, Zonal Office,
   24/2-Ethiraj Salai,
   Chennai-600 105.

2. Executive Director,
   Indian Bank, Head Office,
   Post Box No.1374,
   31, Rajaji Salai,
   Chennai-600 001.

3. Chairperson & Managing Director,
   Indian Bank, Head Office,
   Post Box No.1384,
   31, Rajaji Salai,
   Chennai-600 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Dismissal Order of the Writ Petitioner under Reference No.ZM/MS/VIG/V-218 dated 31.3.2000 on the file of the 1st respondent, the Zonal Manager-cum-Disciplinary Authority, Vigilance Department, Zonal Office, Indian Bank, Chennai-600 104 and the Appellate Order dated 10.11.2001 on the file of the 2nd respondent and the Reviewing Order dated 28.02.2002 on the file of the 3rd respondent, communicated to the writ petitioner by the Assistant Manager, Vig under ref.Nos.5061/2001/VIG dated 10.11.2001 and 685:2002:VIG dated 01.03.2002 respectively and quash the same and direct the respondent herein to reinstate the writ petitioner in service giving all attendant benefits from the date of his dismissal.

For Petitioner :Mr.M.Ramasamy, Party-in-person

For Respondents :Mr.V.Kalyana Raman, for M/s.Aiyar

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O R D E R

Questioning the legality of the impugned order of dismissal passed by the Zonal Manager/Disciplinary Authority, the 1st respondent herein, vide order in Reference No.ZM/MS/VIG/V-218 dated 31.3.2000 which was confirmed by both the appellate and reviewing authorities, namely, the 2nd and 3rd respondents herein on 10.11.2001 and 01.03.2002 respectively, the present Writ Petition has been filed.

2. Mr.M.Ramasamy, the petitioner/Party-in-person submits that when he has not committed any serious irregularities such as misappropriation of the funds of the bank by falsifying the records to the tune of Rs.3,56,500/-, a Charge Memo dated 30.07.1998 was issued against him by the 1st respondent Zonal Manager/Disciplinary Authority, Indian Bank, without framing charge against one Anthony who was cited as a Management Witness to whom the Bankers Payment Order was issued for a sum of Rs.3,56,500/- which indicates that a bias enquiry was initiated against him alone. The party-in-person further submits that as far as the second charge levelled against him is concerned, no Original Paid Travellers Cheques for USD 5000/- was produced in the enquiry for his verification as to whether the alleged signature appeared thereon belongs to him or not which has not been properly substantiated and no proper finding has been given by the Enquiry Officer. Therefore, the impugned order of removal from service passed by the Zonal Manager/Disciplinary Authority, Indian Bank, is liable to go.

3. Indicating improper framing of the third charge that the Foreign Currency USD 600/- sent by the Indian Bank, Anakaputhur Branch for its realisation to Overseas Branch, Chennai had been alleged as misappropriated, the petitioner/party-in-person submitted that there is no proof for the very purchase of USD 600/- inasmuch as there was no Foreign Bills Purchase Number, currency number, currency denomination given and there was no proof for handing over USD 600/- to him. But the Enquiry Officer has wrongly given a finding that the third charge was also established against the petitioner. According to the petitioner, the Enquiry Officer has simply recorded his objection and proceeded further without giving any ruling and found him guilty of all the three charges. Accepting the finding given by the Enquiry Officer in his Enquiry Report dated 29.12.1999, the impugned order was passed by the Zonal Officer/Disciplinary Authority. The same was subsequently confirmed by the Appellate Authority, namely, the Executive Director, Indian Bank and the Reviewing Authority, namely, the Chairperson & Managing Director, Indian Bank. Therefore, the

said orders are liable to be set aside.

4. Learned Counsel appearing for the respondent Bank has drawn the notice of this Court to the explanation dated 12.03.1997 given by the petitioner/party-in-person to say that he has admitted that he arranged to issue a BPO for Rs.3,56,500/- and as instructed by Mr.Sivakumar, he paid Rs.2,00,000/- to him. Again, the learned Counsel for the respondent bank submitted that the petitioner has admitted in his explanation that he has paid a sum of Rs.2,00,000/- to Mr.Sivakumar so as to conceal the arrangement to issue BPO for Rs.3,56,500/-. Therefore, the Disciplinary Authority has rightly passed an order removing the petitioner from service which was confirmed by the Appellate Authority and the Reviewing Authority. Hence, the present Writ Petition is liable to be dismissed.

5. Heard the learned Counsel on either side and I have also perused the materials available on record carefully.

6. At the outset, the facts that while the petitioner was working as Manager, Indian Bank, Overseas Branch, Chennai, he was unexpectedly and abruptly suspended from service w.e.f. 11.12.1996 and thereafter, a Charge Memo dated 30.07.1998 levelling 3 charges was served on him alleging certain irregularities such as he has committed misappropriation of Bank funds by falsifying Bank records to the tune of Rs.3,56,500/- and fraudulently removed from the Branch Foreign Currency Travellers Cheques for USD 5000 and encashed them and thus defrauded the bank to the extent of Rs.1,57,500 and he has also misappropriated foreign currency worth USD 600 sent by Ankaputhur Branch which was said to have been sent by the said Branch for its realisation to Overseas Branch, Chennai thereby violating the Regulation 3(1) of the Indian Bank Officers Employees (Conduct) Regulations, 1976 are not in dispute. Though the petitioner/party-in-person disputed all the charges, the learned Standing Counsel for the respondent bank has drawn the notice of this Court to the explanation dated 12.03.1997 given by the petitioner/party-in-person to say that the petitioner himself has admitted that he arranged to issue a BPO for Rs.3,56,500/- and as instructed by Mr.Sivakumar, he paid Rs.2,00,000/- to him and the petitioner has also admitted that he has paid a sum of Rs.2,00,000/- to Mr.Sivakumar so as to conceal the arrangement to issue BPO for Rs.3,56,500/-. But, nowhere, he has explained why he has paid the said sum of Rs.2,00,000/- to Mr.Sivakumar and how this Rs.2,00,000/- paid to Mr.Sivakumar has been adjusted towards the account of the respondent bank.

7. In this regard, it is relevant to extract the explanation offered by the petitioner in this regard here under:

''Item No.2:

So far as this USD 10000 is concerned, firstly Mr.Sivakumar, C.M. Told me that I have paid this item twice. Then the officers of reconciliation department told me that is not a double payment, but I had paid USD 10000 without cover funds. When I pleaded Mr.Sivakumar to help me to come out of this problem, he suggested me a way out.

Mr.Sivakumar, C.M., asked me whether Import Section was receiving huge income by way of commission, interest etc. I said that after authorising out Muthlalpet Branch, we do not receive huge incomes. Only at that time I received a credit advice No.197 dated 24.6.96 from Royapettah Branch for Rs.425,80,100/- out of which Rs.3,36,789/- was towards income, which is over and above the RDPA claim. I showed this credit advice to Mr.Sivakumar. He only informed me to credit Mirror so as to reconcile the mirror debit pending from 1992. So with the sign of relief and that I am doing this with the knowledge of Mr.Sivakumar, Chief Manager, I credited Mirror on 3.7.96 for USD 10000.

In the meantime, our Nostro Recon Dept. informed that American Express Bank, Newyork has agreed to pay/credit USD 10000. Then I consulted Mr.Sivakumar about this transaction. And I suggested him that this Mirror Credit of USD 10000 may be taken to income.

For that he said that you siphon the funds, otherwise this will create doubt if you take this to income. Then he told me to reverse Mirror Credit dated 3.7.96 and issue a cheque favouring any one so that we can share the funds. I thought that if I do not agree to this arrangement he may divulge this to Assistant General Manager. That is why I arranged to issue a BPO for Rs.3,56,500/- as mentioned in your captioned confidential letter. As instructed by Mr.Sivakumar, I paid Rs.2,00,000/- to him.''

8. Therefore, taking note of the explanation of the petitioner that he has paid a sum of Rs.2,00,000/- to Sivakumar and that he has arranged to issue a BPO for Rs.3,56,500/- which is one of the charges framed against the petitioner, this Court is of the considered view that the Enquiry Officer has rightly found him guilty of the said charges and accepting the same, the Zonal Officer/Disciplinary Authority has rightly imposed the

punishment of dismissal from service and as against that when appeal was preferred by the petitioner, the same was also turned down. Again, the review application filed before the 3rd respondent was also dismissed. Therefore, this Court, while sitting under Article 226 of the Constitution of India considering the finding of fact arrived at by the three Authorities, namely, Disciplinary Authority, Appellate Authority and Reviewing Authority of the respondent Bank, is not inclined to interfere with the same.

9. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1. Zonal Manager & Disciplinary Authority,
   Vigilance Department,
   Indian Bank, Zonal Office,
   24/2-Ethiraj Salai,
   Chennai-600 105.

2. Executive Director,
   Indian Bank, Head Office,
   Post Box No.1374,
   31, Rajaji Salai,
   Chennai-600 001.

3.Chairperson & Managing Director,
   Indian Bank, Head Office,
   Post Box No.1384,
   31, Rajaji Salai,
   Chennai-600 001.

+1cc to M/s.Aiyar & Dolia, Advocates, Sr.No.20574

W.P.No.28754 of 2003

GS(28/05/2020)