

W.P.No.28213 of 2008

M. GOVINDARAJ, J.

The present Writ Petition is listed today under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. When the matter is taken up for hearing, the learned counsel appearing for the respondent Bank would submit that the petitioner has already attained the age of superannuation and retired from service on 31.07.2020 and that all the terminal benefits were settled in August, 2020. Therefore, the observation made in paragraph No.5 of the order dated 16.07.2021 to the effect that learned counsel for the petitioner would submit that money has already been withheld by the Bank may not be correct. The factum has been vouchsafed by the counsel for the respondent. Therefore, the direction is given to the respondent bank to appropriately work out the terminal benefits and settle the dues to the petitioner within a period of eight weeks from the date of receipt of a copy of this order is directed to be struck off and the following words are directed to be substituted:-

“Hence, the respondent Bank is entitled to recover or adjust the quantum of punishment from the future payments”

3. Further, as agreed by both the parties, the punishment specified in Sub-Clause (e) of Clause 4 of the Bipartite Settlement shall be imposed, which reads as under:-

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***“be brought down to lower stage in the scale of
pay up to a maximum of two stages”***

Whereas, this Court has combined with clause (f) and has stated “for a period of three years”. No such punishment is specified in the Bipartite Settlement.

4. Therefore, the last sentence in paragraph No.4 of the order to the effect that “As such the punishment of bringing down to lower stage in the scale of pay with two stages for a period of three years is sustained” is modified and substituted with the following sentence:-

***“As such the bringing down of punishment to lower
stage in the scale of pay upto a maximum of two stages is
sustained”.***

The Registry is directed to issue a fresh order copy to the parties after amending the operative portion of the order as indicated above.

16.08.2021

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Note: Issue order copy on or before 27.08.2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.28213 of 2008

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M.P.No.1 of 2008

D. Mani

... Petitioner

Vs.

Deputy General Manager
Canara Bank
Disciplinary Action Cell
Circle Office
No.524, Anna Salai
Teynampet,
Chennai-600 018

... Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the respondent, quash the order of the respondent bearing Ref.No.CNC DAC 240 E-37 dated 29.10.2008 imposing the punishment of bringing down to a lower stage in the scale of pay by two stages for a period of three years with cumulative effect as illegal, arbitrary, without jurisdiction and consequently direct the respondent to restore the pay of the petitioner with all consequential benefits, pay arrears.

For Petitioner : Mr.Balan Haridas

For Respondents : M/s.Gautam S.Raman
for M/s.P.R.Raman

ORDER

This Writ petition has been filed to quash the order bearing Ref.No.CNC DAC 240 E-37 dated 29.10.2008 imposing the punishment of bringing down to a lower stage in the scale of pay by two stages for a period of three years with cumulative effect and to pay the petitioner with all consequential benefits.

2. The petitioner was charged for a misconduct in assisting a fraudster and withdrawing the money of an absentee account holder . An enquiry was conducted and in the result the charges were held proved and the punishment of bringing down to a lower stage in the scale of pay by two stages for a period of three years with cumulative effect came to be imposed.

3. Even though the learned counsel for the petitioner has raised various objections with regard to the punishment imposed, he would draw the attention of this Court to the enumerated punishments specified in the Service Code of the respondent bank under Chapter XI in the Annexure to the Service Code.

4. Under Sub Clause (e) of Clause 4, the punishment reads as under:

“ 4. (e) be brought down to lower stage in the scale of pay upto a maximum of two stages.”

The words cumulative effect is not found there. Therefore, according to him the punishment imposed is not an enumerated one in the Service Code and it is excessive. There is no contrary evidence placed by the bank. Therefore, considering the submission, this Court is inclined to modify the punishment as to one specified in the code pursuant to a settlement between management and Union by deleting the words “ With cumulative effect”. As such the punishment of bringing down to lower stage in the scale of pay with two stages for a period of three years is sustained.

5. It is submitted that the petitioner has attained the age of superannuation and enjoyed the benefits of interim stay during the pendency of the writ petition. Learned counsel for the petitioner would submit that money has already been withheld by the bank. Therefore, a direction is given to the respondent bank to appropriately work out the

terminal benefits and settle the dues to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

Writ petition is disposed of with the above directions. There shall be no order as to costs. Connected miscellaneous petition is closed.

16.07.2021

To
Deputy General Manager
Canara Bank
Disciplinary Action Cell
Circle Office
No.524, Anna Salai
Teynampet, Chennai-600 018

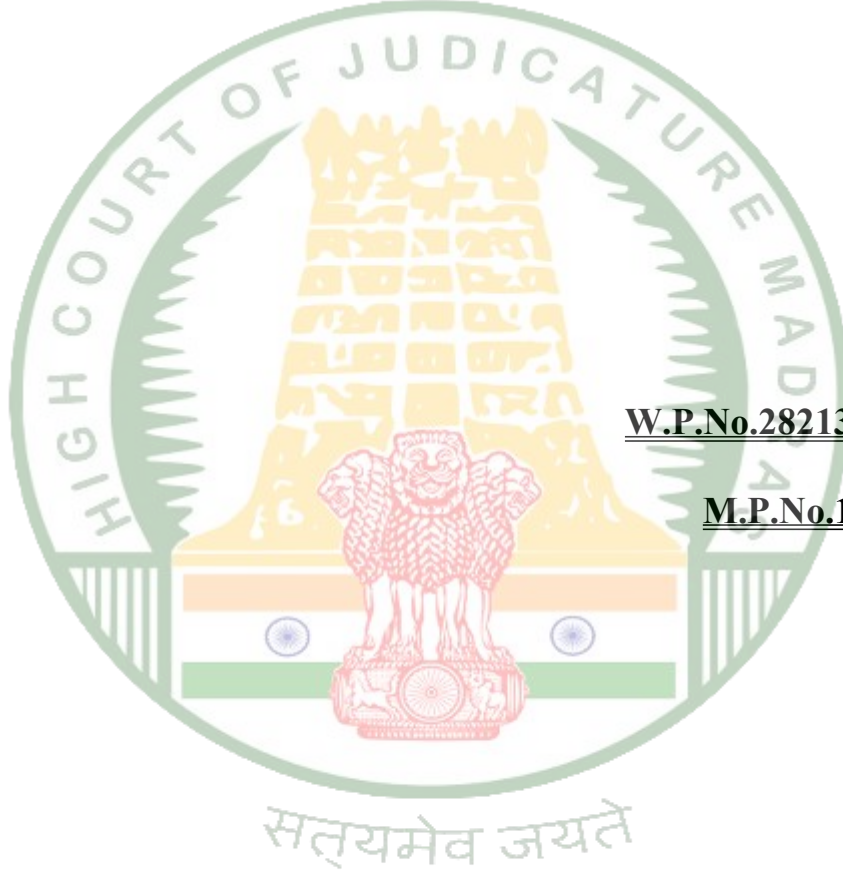


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