IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.9630 OF 2008

S.Natarajan … Petitioner

Vs

1. The Chairman and Managing Director,
   Canara Bank Head Office,
   Bangalore.

2. The General Manager/Appellate Authority,
   Personnel Wing, Canara Bank Head Office,
   Bangalore.

3. The Deputy General Manager,
   Disciplinary Action Cell,
   Canara Bank Circle Office,
   Chennai. … Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records relating to the orders in (1) No.NIL dt 28.6.2003 of the 2nd respondent (communicated in Pro.Ref.No.CNC.DAC.663/E.37 dt 8.7.2003 of the 3rd respondent) and (2) Pro.No.CNC.DAC.751/E.37 dt 31.5.2001 of the 3rd respondent quash the same and issue consequential directions to the respondents to reinstate the petitioner in service with consequential benefits of back pay, continuity of service.

For Petitioner : Mr.Balakrishnan

For Respondents : Mr.P.R.Raman, Senior Counsel
for Mr.C.Seethapathy

O R D E R

This writ petition is filed challenging an order of termination dated 31.05.2001 passed by the 3rd respondent and order of confirmation of the aforesaid by the 2nd respondent/Appellate Authority dated 08.07.2003. At the outset, this writ petition is hit by laches insofar as, it has been filed after a period of five years from date of appellate order.

2.The defence of the petitioner is that an appeal has been filed challenging the order of the appellate authority dated 08.06.2003 before the first respondent i.e. Chairman and Managing Director/R1 on 15.09.2003. However and admittedly, the Regulations of the Canara Bank (Bank) do not provide for an appeal as against the order of the first appellate authority.

3. That apart, there is no acknowledgment for filing of the second appeal on 15.09.2003, as stated by the petitioner nor acknowledgment for the subsequent reminders (one per year) dated 02.09.2004, 15.08.2005, 02.09.2006, 09.09.2007, finally culminating in the present writ petition being filed in April 2008.

4. It appears very clear to me that the present writ petition is an after thought and both the so-called second appeal as well as subsequent annual reminders have been systematically designed to explaining the inconvenient delay of five years. This writ petition is liable to be rejected in limine in the ground but there are other reasons as well that persuade me to do so, are enunciated below.

5.The petitioner entered service as a Clerk in the Bank on 07.04.1980 and was promoted through the ranks. While serving as an Officer in the Mudalaipatti Branch, he was suspended for certain acts of misconduct by proceedings dated 24.01.1997. A charge memo was framed under Regulation 6 of Canara Bank Officer-Employees (D.&A.) Regulations, 1976 read with Canara Bank Officer-Employees (D.&A.) Amendment Regulations, 1988, reading as follows:

> “You were working as an Officer at our Mudalaipatti Branch from 3.6.1996 and you were kept under suspension with effect from 25.1.1997.
>
> While so working at our Mudalaipatti Branch, you were incharge of Deposit Section, Internal Control, etc. An SB A/c No.5376 in the name of Sr.P.Shekar was opened on 12.7.1996 and several transactions were put through for huge sums. An investigation conducted in the matter revealed that the credits in the account were in total violation of systems and procedures in opening the SB A/c and putting through transactions in the newly opened SB A/c. You are responsible for the violation of systems and procedures and your

aforesaid acts have put the Bank to a huge loss of over Rs.3,34 Crores."

6.One of the arguments advanced by the petitioner is that the delay between the order of suspension and framing of charge and subsequent order of R3 dismissing him from service would show significant elapse of time between 1997 to 2001 and that this delay has prejudiced him greatly, also vitiating the proceedings in question.

7.The explanation put forth by the learned counsel for the Bank is that the transactions in issue, were the subject matter of investigation/enquiry by the Central Bureau of Investigation (CBI) under R.C.5 (A) of 1997 for which a charge sheet had been framed bearing No.NK/1/1999. Thus, the domestic enquiry was awaiting the completion of CBI enquiry and formulation of charges. It is for this reason that the order of dismissal was passed only in 2001, notwithstanding that the charge sheet has been framed as early as in November 1999. I find the explanation plausible.

8. That apart, I do not see that there is undue delay perse in the proceedings. The sequence that presents itself to me is that, on 24.09.1997 the petitioner was suspended, on 25.11.1999 a charge sheet was issued and explanation called for, on 27.12.1999, an explanation was submitted by the petitioner, on 12.01.2000, the enquiry as well as presenting officer were appointed, on 01.02.2000, notice for enquiry was issued, the petitioner submitted a written brief on 10.02.2001, report of the enquiry officer is dated 12.03.2001 and on 31.05.2001, the petitioner was dismissed from service. I fail to anything untoward in the timelines as aforesaid. This argument is rejected.

9.I advert to the facts briefly as I am conscious of the fact that I am concerned more with the decision making process than the decision itself. The charges framed as against the petitioner relate to a transaction of the year 1996. On 12.07.1996, the petitioner is stated to have permitted one P.Shekar to open an account with the bank. The petitioner had allowed the credit of proceeds on the basis of an Inter Bank Advise (IBA) issued by the Bangalore Branch of the Bank. Post credits, the account stood with a balance in excess of Rs.70 lakhs.

10.Fifty (50) cheques were permitted to be presented and cleared thereafter from the said bank account. The schedule to the charge sheet contains the details of the payees and it is relevant to note that the petitioner was himself the beneficiary in the case of five withdrawals being cheque Nos.879481

(Rs.25,000/- dated 22.07.1996), 879486 (Rs.5,00,000/- dated 13.08.1996), 879672 (Rs.9,00,000/- dated 19.08.1996), 879674 (Rs.8,00,000/- dated 20.08.1996) and 879678 (Rs.9,00,000/- dated 23.08.1996). To reiterate, the aforesaid facts are only mentioned solely for completion of narration.

11.On the basis of the charge sheet, the explanation tendered by the petitioner and in the enquiry that was held, the charges were held proved by the officer and punishment of dismissal from service imposed on 31.05.2001. The petitioner has thereafter filed an appeal reiterating his submissions before the appellate authority, upon consideration of which the order of dismissal stood confirmed.

12.Parallely, criminal proceedings have come to be concluded by order dated 31.07.2015 passed by the II Additional District Judge (CBI Cases, Coimbatore) in C.C.No.9 of 1999. At paragraph-30 of the aforesaid judgment, the Special Court concludes that the prosecution has proved its case against the first, second and third accused, the petitioner being arrayed as first accused, beyond all reasonable doubt and that the petitioner was found guilty of various offences under the provision of the Prevention of Corruption Act, 1988 and convicted and sentenced to undergo Rigorous Imprisonment and fine. An Appeal is said to have been filed by the petitioner challenging the aforesaid order, which is pending.

13.In light of the discussion as above, I see no merit in this writ petition and the same stands dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs

To

1. The II Additional District Judge,(CBI Cases)
   Coimbatore.

2. The Chairman and Managing Director,
   Canara Bank Head Office,
   Bangalore.

3. The General Manager/Appellate Authority,
   Personnel Wing, Canara Bank Head Office,
   Bangalore.

4. The Deputy General Manager,
   Disciplinary Action Cell,
   Canara Bank Circle Office,
   Chennai.

+1cc to Mr.M.Ravi, Advocate, S.R.No.45403

W.P.No.9630 of 2008

PL(CO)

PM/12/11/2021