



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2021

CORAM:

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THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.11082 of 2013

M.Royappan

.. Petitioner

Vs.

1. General Manager (P&HR)
Department of Personnel,
Industrial Relations Division,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.

2. Deputy General Manager,
Union Bank of India,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.

3. Assistant General Manager(IR)
Department of Personnel,
Industrial Relations Division,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in CO:IRD:1512:2011 dated 12.03.2011 of the respondent No.3 and the impugned order in CO:IRD:2626/2012 dated 09.05.2012 on the file of the respondent No.1 and quash the same as illegal and consequently, directing the respondents No.2 and 3 to reinstate the petitioner in grade MMGS-III notionally with consequential benefits including arrears of salary and pension.

For Petitioner	:	Mr.Karthik, for M/s.T.Lajapathiroy
For R1 to R3	:	Mr.Anand Gopalan for M/s.T.S.Gopalan & Co.,



ORDER

This Writ Petition is filed for issuance of a writ of Certiorarified Mandamus to quash the impugned orders in CO:IRD:1512:2011 dated 12.03.2011 and CO:IRD:2626/2012 dated 09.05.2012 passed by the third and first respondents and to reinstate the petitioner in grade MMGS-III notionally with consequential benefits including arrears of salary and pension.

2.The brief facts of the case that are necessary for disposal of this Writ Petition are as follows:

The petitioner joined as a Clerk in the respondent bank on 15.05.1978 and he was promoted to Office Cadre with effect from 16.07.1984. While the petitioner was promoted to the post of Scale-III post, the third respondent, who is the disciplinary authority, issued a charge memo and after holding enquiry, a major penalty of reduction in Grade ie., from MMGS III to MMGS II with a basic pay of Rs.26,500/- was imposed on the petitioner. As against the said punishment imposed by the third respondent, the petitioner preferred an appeal before the second respondent. The second respondent has also dismissed the appeal by the impugned order dated 09.05.2012. Challenging the order of the disciplinary authority viz., the third respondent and the order of the appellate authority, the above writ petition is filed.

3.The petitioner has not challenged the charge memo or the findings of the disciplinary authority. However, the only argument advanced by the learned counsel for the petitioner before this Court is that by the impugned order, the third respondent imposed double punishment which is not permissible under Regulation 4(g) of Union Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976.

4.Regulation 4 of the Union Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976, is extracted hereunder:

"4. PENALTIES:

The following are the penalties which may be imposed on an Officer Employee, for acts of misconduct or for any other good and sufficient reasons:

Minor Penalties:

(a) Censure

(b) Withholding of increments of pay with or without cumulative effect;

(c) Withholding of promotion;



(d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Bank by negligence or breach of orders;

(e) Reduction to a lower stage in the time scale of pay for a period exceeding 3 years, without cumulative effect and not adversely affecting the Officer's pension;

MAJOR PENALTIES:

(f) Save as provided for in (e) above reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Officer will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;

(g) Reduction to a lower grade or post, or to a lower stage in a time scale;

(h) Compulsory retirement;

(i) Removal from service which shall not be a disqualification for future employment;

(j) Dismissal which shall ordinarily be a disqualification for future employment.

EXPLANATION: The following shall not amount to a penalty within the meaning of this Regulation namely:-

(i) withholding of one or more increments of an Officer Employee on account of his failure to pass a prescribed departmental test or examination in accordance with the terms of appointment to the post which he holds;

(ii) stoppage of pay of an Officer Employees at the efficiency bar in a time scale, on the ground of his unfitness to cross the bar;

(iii) non-promotion, whether in an officiating capacity or otherwise, of an Officer Employee, to a higher grade or post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case;



(iv) reversion to a lower grade or post, of an Officer Employee officiating in a higher grade or post, on the ground that he is considered, after trial, to be unsuitable for such higher grade or post, or on administrative grounds unconnected with his conduct;

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(v) reversion to his previous grade or post, of an Officer Employee appointed on probation to another grade post, during or at the end of the period of probation, in accordance with the terms of his appointment or rules or orders governing such probation;

(vi) reversion of an Officer Employee to his parent organization in case he had come on deputation:

(vii) termination of the service-

(a) of an Officer Employee appointed on probation, during or at the end of the period of probation, in accordance with the terms of his appointment, or the rules or orders governing such probation.

(b) of an Officer Employee appointed in a temporary capacity otherwise than under a contract or agreement on the expiration of the period for which he was appointed or earlier in accordance with the terms of his appointment;

(c) of an Officer Employee appointed under a contract or agreement, in accordance with the terms of such contract or agreement; and

(d) of an Officer Employee on abolition of post;

(viii) retirement of an Officer Employee on his attaining the age of superannuation in accordance with the rules and orders governing such superannuation;

(ix) termination of employment of a permanent Officer Employee by giving 3 months' notice or on payment of 3 months' pay and allowances in lieu of notice;

(x) termination of employment of an Officer Employee on medical grounds, if he is declared unfit to continue in Bank's service by the Bank's Medical Officer."



5.The learned counsel appearing for the petitioner submits that the major penalty of reduction to a lower grade or post, and a lower stage in time scale, cannot be simultaneously made. The submission of the learned counsel for the petitioner leads to the position that a person, whose rank is reduced should be allowed to draw the same scale he was drawing earlier before the punishment. When the punishment is imposed by reduction to a lower grade or post, the salary that is attached to a lower grade or post, will be paid to the delinquent. In the present case, the reduction in grade now imply that the petitioner is reduced to MMGS II and will be drawing the salary applicable to MMGS II post. This is not in violation of Regulation 4(g) of the Union Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976.

6.The learned counsel appearing for the petitioner further submitted that the charges against the petitioner was that he sanctioned loans to 23 applicants equal to total project cost for mango growers under National Horticulture Mission, but released only the amount equal to subsidy component. The learned counsel further submitted that the findings of the enquiry officer is contrary to the charges and that more number of irregularities is mentioned in the order of disciplinary authority. This Court is unable to accept any valid or tenable ground to challenge the order of the third respondent or the second respondent. The irregularities committed by the respondents should be viewed more seriously, as the irregularities are serious in nature. The allegation against the petitioner is that, the scheme formulated by National Horticulture Mission, which is a Government agency has been manipulated by the petitioner by handling the amount of subsidy without paying the actual loan amount to be disbursed to the beneficiaries.

7.The charges itself is that the petitioner has acted against the fair practice of lending. As a matter of fact, the bank is put to embarrassment by the irresponsible behavior of the petitioner. The other allegations against the petitioner are also serious. Having regard to the nature of allegations found and nature of misconduct, the bank has shown lenience by giving lesser punishment. This Court is unable to find any irregularity or illegalities in the order of the third respondent or the second respondent. Hence, this Writ Petition is dismissed. No costs.

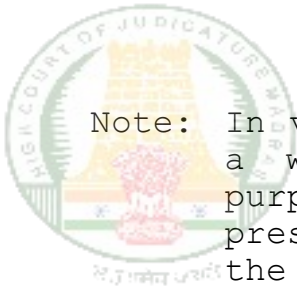
Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To

1. General Manager (P&HR)
Department of Personnel,
Industrial Relations Division,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.
2. Deputy General Manager,
Union Bank of India,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.
3. Assistant General Manager(IR)
Department of Personnel,
Industrial Relations Division,
Central Office,
No.239, Vidhan Bhavan Marg,
Mumbai-09.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-25688[F]
dated 09/08/2021)

+1 CC to M/s.T.S.GOPALAN, Advocate (SR-26017[F]
dated 11/08/2021)

W.P. (MD) .No.11082 of 2013
09.08.2021

GC/25.08.2021/6P/6C