BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20915 of 2019 and
W.M.P.(MD)No.17493 of 2019

R.Marichamy ... Petitioner

Vs.

1. The General Manager / Reviewing Authority,
   Indian Bank, Corporate Office,
   Vigilance Department,
   254-260, Avaisanmugam Salai,
   Rayapettai, Chennai – 14.

2. The Deputy General Manager (VG)/Appellate Authority,
   Indian Bank, Corporate Office,
   Vigilance Department,
   254/260, Avaisanmugam Salai,
   Rayapettai, Chennai – 14.

3. The Assistant General Manager /
   Disciplinary Authority,
   Indian Bank, Zonal Office,
   Madurai.

4. The Chief Manager / Enquiring Authority,
   Indian Bank, Zonal Office,
   Madurai.

5. The Bank Manager,
   Indian Bank,
   Kodaikanal,
   Dindigul District. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in review passed by the first respondent in Reference No.1473 VG : MDU : FC : 2343 : 2016-2017 dated 22.09.2016 confirming the order in appeal passed by the second respondent in Ref:Co/VIG/MDU/F1700/1053/2015-2016 dated 07.07.2015 confirming the punishment order of dismissal passed by the third respondent in ZOM:DP:0:479:PUN: 2014-15 dated 09.10.2014 and quash the same and consequently direct the respondents to reinstate the petitioner with back wages with all attendant benefits and quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents: Mr.Pala Ramasamy,
Standing Counsel.

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O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondent bank.

2. The writ petitioner joined the Indian Bank way back in the year 1986 as Clerk. He was subsequently promoted to officer grade and during the year 2012-13, he was worked as Assistant manager in Kodaikanal Branch Indian Bank. He was suspended from service on 19.08.2013 on certain grounds. This was followed by issuance of charge memo dated 17.09.2013. The writ petitioner offered his reply on 25.09.2013. An enquiry was conducted. The enquiry officer submitted a report holding that the charges framed against the writ petitioner stood proved. After obtaining the writ petitioner's explanation, the disciplinary authority passed an order dated 09.10.2014 dismissing the writ petitioner from service. Questioning the same, the writ petitioner filed an appeal before the Deputy General Manager. The appellate authority also confirmed the order of punishment. Challenging the same, the writ petitioner went before the reviewing authority. The reviewing authority also confirmed the order of the disciplinary authority. Challenging the impugned orders, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and he pointed out that the appellate authority as well as the reviewing authority have simply copied the order of the disciplinary authority and they have not independently applied their minds. On that ground, he wanted this Court to interfere with the impugned orders and remand the matter.

4. Per contra, the learned Standing counsel appearing for the bank submitted that no interference is called for.

5. I carefully considered the rival contentions and went through the materials on record.

6. The charge memo dated 17.09.2013 contains as many as 12 articles of charges. The basic allegation is that the writ petitioner had unauthorisedly withdrawn certain sums of money from the accounts of the customers and remitted the same in the account of his wife Mrs.Megala Rani. When the concerned customer raised a complaint about the unauthorised withdrawal, to cover up the same, the petitioner

withdrew the corresponding amount from some other customer's account and credited the same. This kind of activity had been going on for quite a few months. Charges 1 to 12 relate to them. In fact during the enquiry two of the customers were also examined. For instance, one of the allegations was that a sum of Rs.15,000/- was deducted from the account of M/s.Betsy Elizabeth Trust which was opened under Foreign Contribution Regulation Act on 23.04.2013 without the knowledge and authorisation of the customer and transferred to the SB account of one Mr.V.Kennedy. This was done because from Kennedy's account, a sum of Rs.16,500/- had been deducted for transferring the same in the account of one Mr.K.V.M.Jeeva. Only when the customer complained to the management, the acts committed by the writ petitioner came to light. Actually the petitioner did not have any defence at all because there was absolutely no authorisation for diverting the founds from the customer's account to that of his wife Mrs.Megala Rani. The charge memo as well as the enquiry report set out all the particulars. The date of transaction amount involved, the account details and the names of the customers have all been set out in extenso.

7. It is true that the appellate authority as well as the reviewing authority have adopted the reasoning of the disciplinary authority. This approach cannot be said to be incorrect. When the appellate authority as well as the reviewing authority broadly agree with the view taken by the original authority, there is nothing wrong in adopting the very same reasoning. The petitioner has to establish before this Court that he had raised a new plea and that failure on the part of the appellate or reviewing authority to consider the same had caused prejudice. In fact before the reviewing authority, the only ground raised by the writ petitioner was that no loss was caused to the bank. The reviewing authority rightly observed that it is not the question whether there was any loss caused to the bank and the question was how the customers were dealt with. When once the illegality committed by the petitioner was proved, the management could not have expected to show any sympathy. The learned Standing counsel appearing for the Bank added that the Bank had given a complaint against the petitioner and the petitioner had also been convicted. The orders impugned in this writ petition do not call for any interference.

This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.10.2022

Index : Yes / No
Internet : Yes/ No

PMU

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G.R.SWAMINATHAN,J.

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