IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.26513 of 2009

P.Maruthamuthu ... Petitioner

Vs

1.Indian Overseas Bank,
Represented by its Chairman and Managing Director,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai – 600 002.

2.The Executive Director,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai – 600 002.

3.The General Manager,
IOB, PAD Central Office,
763, Anna Salai, Chennai – 600 002.

4.The Deputy General Manager,
IOB, PAD Central Office,

763, Anna Salai, Chennai – 600 002. ... Respondents

PRAYER:-This Writ Petition has been filed under Article 226 of the Constitution of India praying for Writ of Certiorarified Mandamus to call for the records in respect of the Review order No.DO: ED: RA, 4877; 2005 dated 19.03.2005 issued by the 2nd respondents proceedings by confirming the orders of appeal in order No.DO:GM(SSS): DA 2003 dated 25.09.2003 issued by the 3rd respondent as modified the original order No.DO:DGM (SGS) DA:2003 dated 19.06.2003 passed by the 4th respondent and quash the same and direct the respondents to grant all the consequential service benefits including the monetary benefits and pass such further order.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Srinivasamurthy
for Mr.N.G.R.Prasad

ORDER

This Writ Petition has been filed challenging the punishment of stoppage of increment in the basic pay of the petitioner in three stages for the period of 3 years with cumulative effect, as against the respondents as the same is being confirmed by the second and fourth respondents.

2. Heard, Mr.Muthappan, learned counsel appearing for the petitioner, and Mr.K.Srinivasamurthy, learned counsel for Mr.N.G.R.Prasad, learned counsel, appearing for the respondents.

3. The learned counsel for the petitioner would submit that, he had joined in the service of the first respondent bank as clerk on 04.08.1975, and then on 02.01.1987 he was promoted as Scale I Officer. He would contend that on 31.08.1999, when the petitioner was working as a Assistant Manager at Suramangalam Branch he was suspended for misconducts.

4. He would submit that the petitioner was issued with a charge memo dated 02.09.2000, when he was working at Pudukottai Branch, alleging that he was responsible for the fraud which was committed in the Suramangalam Branch. The fraud had been committed after the transactions

have passed the stage of clearing department, and all those manipulations were done in Savings Bank supplementaries, day book, general ledger etc., which all are handled by other departments and not by the petitioner. He would submit that the duties of the petitioner were in the Deposits, Current Accounts etc., along with clearing department.

5. He would further submit that for the charges framed against the petitioner an enquiry was conducted, but the Enquiry Officer had not conducted the enquiry in a fair and proper manner, and the enquiry officer held that the charges framed against the petitioner is proved. The Disciplinary authority by order dated 30.04.2003 had awarded the punishment of stoppage of increment in the basic pay of the petitioner in three stages for the period of 3 years with cumulative effect.

6. He would submit that, on 13.06.2003, the petitioner had filed an appeal before the third respondent, who had dismissed the appeal and had confirmed the order of the Disciplinary authority. Thereafter, the petitioner

had filed a review before the second respondent, by order dated 05.03.2005, he had also rejected the claim of the petitioner. Further the petitioner filed a petition before the Chairman and Managing Director to reconsider the punishment awarded as the petitioner had retired the same was affecting his pension, it was also rejected on 04.08.2009. Therefore, the petitioner has filed this writ petition to set aside the order of punishment awarded by the disciplinary authority as confirmed by the second to fourth respondents, and seeks to allow this writ petition.

7. Countering his arguments the learned counsel for the respondents would submit that the petitioner while working as Assistant Manager at Suramangalam Branch, during the period 16.12.1997 to 30.06.1999 had failed to account for the total numbers and amount of clearing cheques received in clearing before distribution to various departments. Further the petitioner has also failed to prepare the receipt of inward clearing cheques, department wise segregation of cheques with total number of cheques and amount for SB , CD,

CC etc., on various dates as mentioned in the charge sheet served to the petitioner dated 02.09.2000.

8. He would further submit that, due to the negligence on the part of the petitioner in not ensuring that the inward clearing cheques were entered in the transfer journal individually. This negligence on the part of the petitioner enabled the godown keeper of the bank to commit fraud on the bank by fraudulently presenting cheques drawn on Suramangalam Branch UCO bank, by destroying the cheques without debiting them in the respective accounts. The amount of the said cheques were added to savings bank as supplementary figures so as to tally the day book. Futher he would contend that to cover up the fraud certain alterations were made in the Central Office account and CO summay balance by the said Clerk/Godown keeper.

9. He would further submit that, the petitioner had retired in April 2007, and he had accepted and received all his terminal benefits in May 2007

itself and he is also receiving pension every month, and the petitioner had filed this Writ petition only when the punishment has reached finality that too after a period of four years. The petitioner was served with the charge memo, and was given an opportunity to submit his explanation. The enquiry conducted by the Enquiry Officer was in a fair and proper manner. The second to fourth respondents had confirmed the order passed by the disciplinary authority becuase the charges framed against the petitioner was serious in nature and that he failed to protect the interest of the bank, and had failed to discharge his duties with utmost devotion and diligence. So the punishment awarded against the petitioner is appropriate as he was held guilty for the charges levelled against him. Hence, seeks to dismiss this writ petition.

10. I have heard the submissions, on behalf of the respective parties and have perused the materials available on record before this Court.

11. It has not been factually disputed by the petitioner that there were certain frauds happenned in the clearing department. He had only pleaded that such mistakes might have been happenned after the clearing stage and that is nothing to do with the petitioner for these acts done by the staffs in that department.

12. On analysis of the facts of the case it could be seen that there are some deficiencies on the pat of the petitioner in performing his duties. But, the said deficiencies would have been rectified. However, taking advantage of the said deficiency, employees of other Departmen had taken advantage for which the punishment imposed according to me is on the higher side. In such view of the matter, I am inclined to modify the order of punishment as to that of stoppage of increment in three stages for a period of three years without cumulative effect.

13. In fine, this Writ Petition is partly allowed and the punishment imposed on the petitioner is modified to that of stoppage of increment in three stages for a period of three years without cumulative effect. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.11.2023

gba
Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No
To

1.Indian Overseas Bank,
Represented by its Chairman and Managing Director,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai – 600 002.

2.The Executive Director,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai – 600 002.

3.The General Manager,
IOB, PAD Central Office,
763, Anna Salai, Chennai – 600 002.

4.The Deputy General Manager,
IOB, PAD Central Office,
763, Anna Salai, Chennai – 600 002.

K.KUMARESH BABU,J.

Gba

W.P.No.26513 of 2009
and M.P.No. 1 of 2009

28.11.2023

(2/2)