IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.26514 of 2009
and M.P.No. 1 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.DA: ED: RA, 4689; 2005 dated 05.03.2005 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 and the original order No.DO:DGM (MRC) DA:2003 dated 30.04.2003 issued 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

The Writ Petition has been filed challenging the Orders issued 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 10.03.1995, when the petitioner was working as a Assistant Manager at Pudanchanthai Branch he had introduced one M.Krishnan to the Branch, and he had opened a Savings Account. He had submitted an application to avail loan for purchasing Tractor and Trailer to the tune of Rs.8.38 lakhs.

4. He would submit that based on the directions from the Manager of the bank, the petitioner had inspected the properties of M.Krishnan, which he had offered as collateral security and after enquiry the petitioner had furnished the value as Rs.6.75 lakhs and 4.50 lakhs respectively for the properties. An approved valuer also had given a value report more than the value arrived by the petitioner. Thereafter the Manager of the Branch had also

inspected the properties and only after his satisfaction the proposals were forwarded to the Regional office, and the loan amount was sanctioned by the Regional office.

5. He would further submit that the petitioner was suspended from service in September 1999, when he was working as a Assistant Manager in Suramangalam Branch and thereafter got reinstated and transferred to Pudukottai Branch. While working in Pudukottai the petitioner was issued with a Charge memo dated 05.03.2001 alleging that the petitioner had given inflated value for the properties offered by Krishnan as a collateral security and had caused short fall in securities and had put the bank in difficulty to recover the entire dues.

6. He would further submit that an enquiry was conducted by the Enquiry Officer but the same was not in a fair and proper manner. The respondent bank had filed documents regarding the valuation of the property

but no opportunity was given to cross examine and the charges framed were held to be proved. The Disciplinary authority by order dated 19.06.2003, had awarded the punishment of stoppage of increment in the petitioner's basic pay in five stages for the period of 5 years with cumulative effect. Against such order the petitioner has filed an appeal before the third respondent, and he had modified the award of punishment of stoppage of increment to 3 stages for the period of 3 years with cumulative effect. Aggrieved by the same the petitioner had filed a review before the second respondent who had rejected by order dated 19.03.2005. Further the petitioner has filed a petition before the Chairman and Managing Director of the bank to reconsider the punishment, which was also rejected. 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 has filed this writ petition only after four years of awarding punishment. The petitioner was given all opportunities to defend his case before the disciplinary authority as the preliminary enquiry was conducted on 23.11.2001 at Suramangalam Branch and regular enquiry was held on 16.10.2002 at Pudanchandai Branch. The proved Charge as against the petitioner was that on 20.03.1995 and 30.05.1995 when the petitioner had conducted preliminary inspection of immovable properties situated at Vasanthapuram and Reddiapatty villages which were offered as collateral security for the loan availed by the borrower, the petitioner had furnished value as Rs.6.75 lakhs and 4.50 lakhs respectively for favourable consideration for the loan proposal, though the actual value of those properties were only Rs.1.40 lakhs and Rs.1.10 lakhs, which had caused shortfall in securities available to the Bank.

8. He would further submit that, it was the petitioner who had introduced the borrower to the bank stating that he had acquaintance with the

said Krishnan for the past 12 years and had opened an SB Account bearing No.4217 at Pudanchandai Branch. The said borrower was of a Namakkal resident he does not come under the service area of Pudanchandai Branch. He would further contend that an preliminary report bearing valuation done by the petitioner was sent along with proposal to Regional Office for sanction of SRTO loan for a tune of Rs.8.38 lakhs for a vehicle costing to Rs. 11,17,355/-. The loan amount was released by the bank on 14.07.1995 based on the recommendation of the Pudhanchandai Branch with the proposed collateral securities valued by the petitioner.

9. He would submit that, the petitioner in his reply to the explanation letter had stated that the real estate properties values had gone down, so this shows that the petitioner himself had accepted that the value of the property present is less and not worth to the advances granted. The petitioner was punished only for his act of negligence and for the act of suppression of fact of not disclosing the material fact exercising due diligence. The petitioner has acted against the norms of the bank. The disciplinary

Authority by order dated 19.06.2003, confirmed the findings of the Enquiry Officer and imposed the punishment of reduction in the petitioner's basic pay by five stages. Whereas on appeal the appellate authority by order dated 25.09.2002, has reduced the punishment into three stages of his basic pay for a period of three years.

10. He would further submit that, the respondents had conducted an enquiry when the loan account sanctioned was declared as Non Performing Assets (NPA), on such enquiry it was found that, the Regional Office has sanctioned the loan based on the recommendation and the valuation report made by the petitioner. He would also contend that the Charge framed against the petitioner is not for introducing the borrower to the bank, the Charge was for giving inflated value for the securities offered by the borrower who is known to the petitioner. The charge was also proved based on the documentary evidences in the enquiry. Therefore, the petitioner is liable for the Charge framed against him and the punishment awarded is not disproportionate. Hence, seeks to dismiss this writ petition.

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

12. It is to be noted that there are no procedures in the bank that an employee can introduce any customers to the bank for availing loan facilities, in this case it is to be noted that the petitioner himself had introduced one Krishnan and he has availed loan facilities from the respondent bank. Further it was the petitioner who had inspected the properties given by the borrower as collateral security. Subsequently, after the sanction of the loan amount it was brought to the notice of the bank that the property valued was more than the market value, and this act of the petitioner being an Assistant Manager of the bank has to be certainly viewed seriously, considering the fact that the petitioner had close contact with borrower and the property was under valued by him. If the petitioner would have given a proper inspection report then the

loan to the said Krishnan might have been not sanctioned and the bank would have not being put into monetary loss.

13. As rightly pointed out by the learned counsel for the respondents it is to be noted that the Charge framed against the petitioner is not for introducing any person but for submitting a inflated value of properties given to the bank as collateral securities. It is to be noted that the petitioner has accepted and received a sum of Rs.3,13,529/- as Member Contribution towards provident fund and gratuity of Rs.3,50,000/- as settlement of terminal benefits after his retirement and he his also receving a sum of Rs.14,766.65 as pension every month.

14. The petitioner had been originally imposed with the punishment of 5 years stoppage of increment with cumulative effect which had been reduced by the Appellate Authority by imposing a punishment of 3 years stoppage of increment at three stages with cumulative effect. In the present

case because of the conduct of the petitioner there was a shortfall in the securities that is available to the Bank which would have endangered the Bank in arising in claim against the borrower. Further, I am of the view that the reduced punishment imposed by the Appellate Authority is proportionate to the proved misconduct and therefore, the punishment imposed on the petitioner does not warrant any interference by this Court.

15. In fine, this writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.11.2023

Speaking order : Yes/No
Index : Yes/ No
Neutral citation : Yes/No

To

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K.KUMARESH BABU,J.

Gba

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