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W.P.No.21933 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.21933 of 2010
and M.P.No. 2 of 2011

A.R.Sundaresan

... Petitioner

Vs

- 1.M/s.Syndicate Bank,
(A Government of India undertaking),
Represented by its Chairman & Managing Director,
Corporate Office, Syndicate Bank,
2nd Cross, Gandhi Nagar, Bangalore – 560 009.
- 2.The Assistant General Manager (P) & Disciplinary Authority,
Industrial Relations Division,
Syndicate Bank,
Head Officer, Manipal,
Karnataka – 576 104.
- 3.The Deputy General Manager (P),
Industrial Relations Division,
Syndicate Bank,
Head Officer, Manipal,
Karnataka – 576 104.
- 4.The General Manager (P) & Appellate Authority,
Corporate Office, Syndicate Bank,

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2nd Cross, Gandhi Nagar, Bangalore – 560 009.

5. The Executive Director,
Syndicate Bank,
Head Officer, Manipal,
Karnataka – 576 104.

... Respondents

(R5 impleaded as per the Court order dated 08.09.2011 in M.P.No.1 of 2011 in W.P.No.21933 of 2010)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus calling for the records relating to (i) the proceedings of the second respondent in No.302/PD IRD/DA3 dated 21.08.2008 (ii) the proceeding of the third respondent in No.167/PD/IRD/DA6 dated 29.06.2009 and (iii) the proceedings of the fourth respondent in No.077/PD IRD/DA7, dated 24.10.2009 and quash the same and direct respondents to reinstate the petitioner with full backwages with effect from 12.12.2007 and all consequential benefits and arrears thereof on or before a date to be fixed by this Court.

For Petitioner : Mr.K.Karunagaran

For Respondents : Mr.P.Ragunathan

ORDER

This Writ Petition has been filed challenging the proceedings of the respondents 2 to 4 and to quash the same and to direct the respondents to reinstate the petitioner with full back wages with effect from 12.12.2007



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and to provide all consequential benefits and arrears.

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2.The case of the petitioner is that he joined in the services of the first respondent bank on 28.07.1975 as a clerk. Subsequently was promoted as a Senior Branch Manager, Perambur Branch till 17.11.2007 and transferred to Regional Office, Chennai as Senior Manager, and was holding the same till 31.12 2007.

3.On 31.12.2007, the petitioner was placed under suspension by the third respondent till 29.06.2009. The second respondent framed a solitary charge on 21.08.2008, but no specific charge has been framed as against the petitioner. Further an enquiry was conducted by the Chief Manager where the petitioner has denied the charges levelled against him. Thereafter, the third respondent by his proceedings dated 29.06.2009 has concluded that the petitioner is guilty of the charges and passed the order of dismissal. Aggrieved by the same the petitioner had preferred an appeal before the fourth respondent and the same was rejected conforming the punishment of dismissal. Thereafter, he preferred a revision before the Executive Director



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of the first respondent bank and the same is deemed to have been rejected.

Now this writ petition is filed to quash the proceedings of the second to fourth respondents and to reinstate the petitioner with full back wages with effect from 12.12.2007.

4. Heard, Mr.R.Karunagaran, learned counsel appearing for the petitioner and Mr.P.Raghunathan learned counsel appearing for the respondents 1 to 4.

5. The learned counsel for the petitioner submitted that the petitioner has joined in the services of the first respondent bank in 1975 as Clerk and was promoted as Senior Branch Manager, which he held till 17.11.2007. The petitioner has secured many certificates of recognition for his meritorious service rendered to the first respondent bank. It is submitted that the petitioner was placed under suspension on 31.12.2007, by order dated 12.12.2007 by the third respondent.

6. He would submit that a solitary charge was framed by the second



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respondent on 21.08.2008, alleging that the petitioner has acted in a manner unbecoming of an employee. When an enquiry was conducted by the Chief Manager, Chennai Region the petitioner has denied all the charges. During the enquiry two witnesses were examined, according to the petitioner both the witnesses were not competent to speak about the charges, and about the contents of the exhibits marked in Exs.M1 to M354. Further a new disciplinary committee was formed by the third respondent and the third respondent by the impugned proceedings dated 29.06.2009 concluded that the petitioner is guilty of charges and imposed the punishment of dismissal from service and ordered that the period of suspension, of the petitioner shall be treated as "Not on Duty" and denied all service benefits and arrears.

7. It is submitted that the petitioner has preferred an appeal before the fourth respondent and punishment of dismissal ordered by the third respondent was confirmed by proceedings dated 24.10.2009. Further the petitioner filed a revision before the Executive Director of the first respondent bank on 31.01.2010 and the same was deemed to have been rejected. He would submit that the entire proceedings of the respondents 2



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to 4 are liable to be quashed as one passed without any authority and in violation of the Syndicate Bank Officer Employee's (Discipline & Appeal) Regulations, 1976.

8. He would submit that mere negligence in opening of 22 Savings accounts on the part of the petitioner would not constitute a misconduct as in terms of Regulation 3(1) read with Regulation 24 of Conduct Regulations, thereby no disciplinary action could be taken. He would further submit that as the allegation for the loan sanctioned, the officer who processed the loan applications was not enquired with, the petitioner is the Manager below him there are Concurrent Auditor and Inspecting officials for Inspection Department of the first respondent Bank they all did not observe there was non-observance of KYC norms in respect of the 22 Savings account. All these charges cannot be levelled as only against this petitioner.

9. He would submit that the allegation as to the discount made to 17 cheques of the M/s Maxcom Company is not within the knowledge of this



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petitioner and he is not the officer who has authorized the debit. He would also submit that the CDD was tallied on 28.07.2007 and the same can be seen from Ex.1 and there had been regular payments for more than six months. Further on 13.11.2007, when the cheques were returned from Canara Bank, Murugangudi this petitioner has not discounted any further cheques. He would also submit that one officer named Geetha had concealed the facts of return of cheques or pendency of discounted cheques when that being so the concerned officer was granted with only a minor punishment by the respondent bank. Further the charge of non adherence of KYC norms are also false and the same is proved through the answers of MW-1, and KYC documents has to be followed up by the Section officer who opens the Savings accounts and not by the petitioner who holds the post as a Senior Manager. He would also submit that there is a fault on the enquiry conducted as the officer responsible for these is Mrs.Geetha who was not examined, and she was awarded with a lesser punishment, for the lapses on her part for non-reporting the return of CDD.



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10. He would further submit that the main charge as alleged against this petitioner is that he had discounted many cheques to the Maxcom company beyond his authority and for which he had not obtained any permission from his higher authorities. The petitioner had sought written permission from the Regional Office this fact was also proved in the departmental inquiry.

11. He would further submit that there was no serious charges placed on the petitioner for which maximum punishment of dismissal should not have been awarded. The petitioner had an unblemished service with the first respondent bank for more than three decades. Hence, he prays to quash the proceedings of the respondents 2 to 4 as the enquiry was not conducted in proper manner, the witnesses examined was no way related to the charges framed and there are many factual mistakes which was not even taken into consideration by respondents 2 to 4, and also they have not examined the officers who had acted in the back of the petitioner. Thereby the petitioner is entitled for full backwages and for all consequential benefits as the



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charges levelled against the petitioner are false and as the same have not been proven.

12. Countering his arguments the learned counsel for the respondents would submit that it is an undisputed fact that the petitioner joined in the services of the first respondent bank in 1975 as Clerk. During the year 2007, the petitioner was working as Senior Branch Manager of Perambur Branch. He would submit that while the petitioner was working as Senior Branch Manager, on 01.02.2007, had permitted opening of Current account of a company named M/s. Maxcom Exim (P) Ltd.,. On 12.02.2007 and 03.03.2007, 22 Savings Bank Accounts were opened in respect of the Employees/Directors of the said Company at the Instance of the petitioner. It was found that in all the 22 accounts, there were discrepancies in the manner in which the accounts were opened.

13. He would further submit that the petitioner had sanctioned a sum of Rs.43,76,000/- to the 22 account holders during the period 28.02.2007 and 27.03.2007, under the personal Banking loans. All these loans were



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sanctioned without ascertaining to the genuineness of the salary and other parameters which are necessary for sanctioning such loans. He would submit that all these facts came to light only when the successor to the petitioner's post took charge and when the loans were verified, it was found that the proceeds of the transactions pertaining to 11 accounts were all credited to the account of one Mr. K. Raja Mohan, who was the Chief Accounts Officer of the Maxcom Company and when letters were sent to the borrowers claiming the dues the letters were returned with the endorsements such as 'No such person', 'Party not available', 'door locked', 'improper address', and 'party out of station' etc. So as on 03.05.2008, an total sum of Rs.45.05 Lakhs was outstanding and those loans had become non performing assets.

14. He would further submit that the petitioner has not only issued loans in the name of the said company employees, but had also discounted 17 cheques amounting to Rs.62.60 Lakhs and total debit balance on the bank as on 14.02.2008 was Rs.63.67 lakhs. When the bank authorities had come across the fraud played on the bank, by the petitioner herein and the



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Maxcom Exim (P) Ltd., the respondent bank had filed criminal complaints as against the petitioner and the company.

15. Based on all these aspects the petitioner was placed under suspension on 12.12.2007. The order of suspension was imposed by the then Deputy General Manager who is the competent authority under the Officers Service Regulations. A Charge Sheet was issued to the petitioner on 21.08.2008, pertaining to the details regarding the nature of allegations and a statement of imputation was also attached and proper enquiry as under the statutory Regulations were also held in accordance with the provisions of Regulation 6 of the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976. During the enquiry two witnesses were examined on the side of the Bank and Exhibits MEX-1 to MEX-354 were marked. The Enquiry Officer had put questions in respect of the incriminating material which was adduced in the enquiry against the petitioner and sought clarification.



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16. He would further submit that the Enquiry Officer had given his report on 29.04.2009, holding the petitioner guilty for the misconduct alleged against him. Based on the report, the third respondent, by virtue of his office as disciplinary authority, in respect of officers of the grade MMGS-III, was competent to impose punishment and he had passed orders on 29.06.2009 imposing punishment of dismissal. The findings of the disciplinary authority is that the petitioner had exposed the bank funds to the tune of Rs.103.72 lakh and committed several other irregularities. The petitioner had displayed absolute lack of integrity, such employees acting beyond the authority and working against the interest of the bank have no right to continue in the bank. The bank has lost trust in him and hence taking into consideration all the circumstances had dismissed the petitioner from the service and the period of suspension of the petitioner to be treated as 'Not on Duty' and further the petitioner is not entitled for any back wages/notional increments or consequential benefits.

17. He would further submit that the petitioner had preferred an appeal before the 4th respondent, who is the Appellate Authority and by



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order dated 24.10.2009, the appeal was dismissed. The 4th respondent has held that the actions of the petitioner has resulted in considerable funds of the bank being tied up in NPAs exposing the bank to financial loss amounting to Rs.103.72 lakh and had confirmed the order of dismissal from the service of the bank with immediate effect. Thereafter the petitioner has further preferred a revision before the Executive Director of the Bank, which was not considered as the same was not in conformity with the relevant Regulations.

18. He had vehemently argued before this court that on account of the willful attitude of the petitioner in opening of accounts and in sanctioning of loan amounts, the collusion between the petitioner and the officers of the M/s. Maxcom Exim (P) Ltd., is apparent and the petitioner herein had put the first respondent Bank into serious risk to an extent of Rs.103.72 Lakhs along with interest and now the said amount has become a non performing asset as the bank has no remedy to recover the same.



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19. He would further submit that the petitioner had taken part in the disciplinary proceedings and he was given all opportunities to defend himself despite which he failed to prove his non involvement in the discount of cheques and sanctioning of loans and had tried to project the case as one Geetha who was only a subordinate to this petitioner has involved in all these is not reliable and it was found that the said Geetha had only acted according to the instructions given by the petitioner and it is well evident that this petitioner has acted and performed beyond his capacity of holding the post as a Senior Branch Manager. However he would also submit that the officer named Geetha was also inflicted with punishment. For all these reasons the counsel for the respondents submit that the proceedings and orders issued by the respondents 2 to 4 are within the statutory Regulations of the Syndicate Bank Officer Employees (conduct) Regulation, 1976, and prayed for dismissal of this writ petition.

20. I have heard the rival submissions made by the learned counsels appearing for their respective parties and perused the materials available on



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21. The main contention of the learned counsel for the petitioner is that the allegations as against the petitioner would only point out that there were certain negligences in the part of the petitioner. He would further submit that for the delinquencies that has been pointed out in the charge memo, the petitioner alone could not be held liable and that he had been made as a scapegoat and various other persons have been protected. He had also submitted that in spite of petitioner's request for permission from the higher authorities to proceed further, no instructions have been received and therefore, the petitioner had no other opportunity except to proceed with the opening of accounts as requested by the customers. He would submit that this is only to benefit the bank by getting in more customers and also pumping in more funds to the business of the bank.

22. He had further submitted that all loans have been sanctioned only after verifying the genuinity of the private party and they had also repaid the loans for the period, only thereafter, they have defaulted, for



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which action could can be initiated by the bank for recovery. I am not convinced with the reasonings made by the learned counsel for the petitioner to assail the order impugned in this Writ Petition.

23. It is an admitted fact that the petitioner had not received any permission as sought for by him from his superiors. When it is an admitted fact, the petitioner ought not to have proceeded with, in entertaining the opening of accounts of the private party for which the petitioner had also availed certain loans which came to be defaulted by the private party in their repayments. Had the petitioner awaited the permission from the superiors and then allowed the third party to open the account, I would appreciate the said arguments made by the learned counsel for the petitioner. Further, the learned counsel for the petitioner had vehemently contended that there was no oral evidence except for documentary evidences that had been filed before the enquiry officer. It is to be seen that the entire proceedings are based upon the documents. When it is an admitted case that there was no permission granted by the superiors and the petitioner had proceeded to service the accounts of the third party, there is no necessity for even any



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oral evidence and the disciplinary proceedings against the petitioner could have been concluded based upon the documentary evidence.

24. In such view of the matter, I do not find any infirmity or illegality or arbitrary in the disciplinary proceedings that has been conducted against the petitioner in which this impugned orders have come to be passed.

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

02.11.2023

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



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(A Government of India undertaking),
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