IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.02.2023

PROUNOUNCED ON : 28.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.9912 of 2014

J.Thomas Karunanithi ..Petitioner

Vs.

1.The Disciplinary Authority
and the Deputy General Manager
Indian Overseas Bank
Central Office, 763, Anna Salai, Chennai-600 002

2.The Appellate Authority and The General Manager
Indian Overseas Bank,
Central Office, 763, Anna Salai, Chennai-600 002

3.The Reviewing Authority & Executive Director
Indian Overseas Bank
Central Office, 763, Anna Salai, Chennai-600 002

4. The Chairman & Managing Director
Indian Overseas Ban;
Central Office, 763, Anna Salai, Chennai-600 002

..Respondents.

Prayer: Petition filed praying to issue a writ of certiorarified mandamus pertaining to the order bearing No.DO/VIG/ED (AKB) RA/F-7101 6598 d012-13, dated 23rd March 2013 passed by the 3rd respondent confirming the appellate order bearing No.DO/VIG/GM(DSB)/AA/F-7101 : 3702/2012-13 dated 8th September 2012 of the 2nd respondent and the order bearing No.DO/VIG/DGM (JNP) /DA/F-7101 : 1588/2012-13 dated 6th July passed by the 1st respondent dismissing the petitioner from service and quash the same and consequently, direct the respondents to pay back wages since date of dismissal viz., 6th July 2012 till date of superannuation viz., 31st March 2013 and full retirement benefits eligible in superannuation/retirement.

For petitioner : Mr.S.Selvathirumurugan

For respondents : Mr.K.Srinivasamurhty

ORDER

This writ petition is filed seeking to quash the orders passed by the respondents, in dismissing the petitioner from service. The petitioner seeks for a direction to the respondent to pay backwages from the date of dismissal till the date of superannuation and full retirement benefits.

2. It is averred in the writ petition that while he was serving as Branch Manager, Indian Overseas Bank, Hosur, Town Branch, during February, 2009, one Murali approached bank for loan amount of Rs.2,50,000/- for Small Scale Industries Unit by the name of M/s.Dhanalakshmi Industries for purchase of machineries. The petitioner after proper verification and scrutinizing all the necessary documents, including legal opinion of the Collateral property from the bank and valuation report, sanctioned a Working Capital Term Loan. The said Murali deposited title deeds of collateral security of a house site in the name of his father-in-law which has been subsequently registered as Document No.1883 of 2009 in the SRO, Hosur on 17th March 2009.

3. The petitioner is said to have obtained necessary documents pertaining to proof of residence of borrower and guarantor, rental agreement of the unit, certificate of registration of business etc for loan sanction. Towards the sanctioned loan amount of Rs.2,50,000/- only an amount of Rs.1,65,000/- in three instalments was released on different dates. Thereafter, a reliable information was received by the petitioner that borrower V.Murali had stolen his father-in-law's property documents and arranged somebody to impersonate as G.Muniappa and cheated SRO, Hosur Town at the time of executing registered Memorandum in favour of Bank and thus cheated the Bank also with an invalid mortgage. Hence, the petitioner did not release the balance loan amount and stopped the balance loan of Rs.85,000/-. The borrower was called and advised to close the loan amount of Rs.1,65,000/-. The petitioner was transferred to Krishnagiri Branch in the meantime. According to the petitioner, since there was target of more than Rs.30 crores, certain defects and lapses in the above said loan account had occurred, but in order to prevent loss to Bank and safeguard the interest of the Bank, he

paid the outstanding amount of about Rs.1,40,110/- from his funds.

4. It is further averred in the writ petition that after two years, memorandum of allegations and articles of charge accusing and alleging the petitioner of several charges was framed and enquiry was held on 1st March 2012 and on the basis of the findings of the inquiry officer, it was held that the charges were proved. It is stated that the 1st respondent had passed an order of dismissal on 6th July 2012.

5. Mr.S.Selvathirumurugan, learned counsel for the petitioner would submit that the entire allegations and the punishment imposed is only a counter-blast by the respondent-authorities in respect of the petitioner who exposed the scam in the recruitment of about 900 odd messengers in the Bank involving senior officials of the Bank. The petitioner submits that the appeal preferred by him before the 2nd respondent came to be dismissed on 8th September 2012, aggrieved against which, a Review was filed and just 3 days before superannuation of the petitioner, was rejected and his dismissal from service got confirmed.

6. The learned counsel for the petitioner would argue that the submissions of the petitioner was not considered in proper manner and he was not given any reasonable opportunity to put forth his case before the enquiry officer. The charge memo did not contain the charge of collusion and only with a vindictive attitude, enquiry was conducted and without giving property opportunity to defend his case, the disciplinary proceedings was ended by imposing disproportionate punishment of dismissal from service.

7. Per contra, the learned counsel appearing for the respondent Bank would submit that at the time of sanction of loan, the petitioner had not prepared any sanction note and even the purpose of loan was not mentioned in the note. Further, unit inspection was not conducted by the Branch and the business was not in existence. The guarantor/mortgagor who had deposited the title deeds had turned out to be an impersonator. For the proved charges, the petitioner was imposed with punishment of dismissal and the petitioner failed to discharge duties with utmost

integrity.

8. Heard both sides and perused the records.

9. A perusal of records would go to show that in respect of the loan transaction which is the subject matter of allegations and articles of charge against the petitioner, the State rep. By Inspector, Krishnagiri District Crime Branch registered a case in Crime No.10/2010, wherein, the persons who impersonated the documents viz., V.Murali and Venkatesh were arrayed as A1 and A2 and the petitioner herein who sanctioned the loan was arrayed as A3. After filing of charge sheet, the matter was taken up in C.C.No.134 of 2016 by the Judicial Magistrate, No.2, Krishnagiri. The learned Judge, after trial, held that the investigating authorities had not sent the documents for forensic analysis and thereby, failed to prove that the accused involved in the said offence. The learned Judge also held that since the charges was not proved beyond doubt, the sanction of loan by the third respondent/3rd accused has not been established beyond doubt. The learned Judge also held that

investigation has not been conducted properly and that there is no sufficient material to charge the respondents/accused for the offence punishable under Sections, 419, 420, 467, 468 r/w.34 of IPC and further held that the petitioners are not found guilty of the said charges and they are acquitted under Section 248(1) of Cr.P.C. The said judgment was passed on 22.11.2019.

10. The observations in the above judgment in C.C.No.134 of 2016 would apply to the facts of the present case. As rightly contended by the learned counsel appearing for the petitioner, the loan amount advanced has been paid by the petitioner and there was no loss to the Bank. The criminal case trial was over and the petitioner has been acquitted. The petitioner made no loss to the Bank and at the time of verge of retirement, the disciplinary proceedings were initiated against the petitioner and he was imposed with punishment of dismissal from service.

11. The petitioner served in the bank with 32 years of unblemished

service and discharged his work to the satisfaction of his superior officers. In such circumstances, the allegations and articles of charge has not been substantiated with strict proof and much more, the petitioner has not caused any financial loss to the Bank.

12. The findings recorded by the enquiry officer and the punishment imposed is not proportionate to the charges levelled against the petitioner. For the lapses occurred in the sanction of loan by the petitioner and the consequent charges and enquiry held, this court is of the considered view that the charges are only in technical in character and the respondents, without having any regard to the nature of the particular misconduct or the past record of service of the employee, imposed the punishment of dismissal, which is shockingly disproportionate punishment. Further the punishment of dismissal of the petitioner who worked for more than 30 years with good reputation and with good past record, no reasonable employer would ever impose such punishment and therefore, this court is of the view that the impugned orders are nothing but victimization.

13. For the reasons stated above, this writ petition is allowed. The impugned orders are set aside. The respondents are directed to treat the petitioner as one retired from service and grant him pension, gratuity and other eligible benefits. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

28.04.2023

Index:Yes/No
Speaking/Non-speaking order
nvsri

To

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2.The Appellate Authority and The General Manager
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Central Office, 763, Anna Salai, Chennai-600 002

3.The Reviewing Authority & Executive Director

Indian Overseas Bank,Central Office, 763, Anna Salai, Chennai-2

4. The Chairman & Managing Director

Indian Overseas Bank.Central Office, 763, Anna Salai, Chennai-600 002

J.NISHA BANU, J.

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