BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15137 of 2021

D.Senthilkumar ... Petitioner

Vs.

1.Canara Bank,
Chief General Manager,
Reviewing Authority,
Human Resources Wing,
Industrial Relation Section,
Head Office,
No.112, J.C.Road,
Bengaluru – 560 002.

2.The Deputy General Manager,
(Appellate Authority),
Canara Bank,
Human Resources Wing,
Industrial Relation Section,
Head Office,
No.112, J.C.Road,
Bengaluru – 560 002.

3.The Assistant General Manager,
Disciplinary Authority,
Canara Bank,
Human Resources Management Section,
Circle Office, East Veli Steet,
Madurai – 625 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the concerned records from the respondent 1 to 3, quash the order of the first respondent dated 26.03.2020, the order of the second respondent dated 27.06.2019 and the order of the third respondent dated 21.06.2018 bearing Ref. MDUC HRM 1963 2018 as illegal, arbitrary and contrary to law and consequently direct the respondents to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.

For Petitioner	:	Mr.T.Cibi Chakrabarthi for Mr.A.Thiyagarajan
For Respondents	:	Ms.S.Vanitha for Mr.M.Muthukumaran

ORDER

The writ petitioner joined the respondent Bank on 12.11.2001 as Probationary Clerk. He was working in Ariyalur branch from 06.05.2011 to 27.06.2014 as officer. He was transferred to Pallapatti branch. On 07.07.2017 show cause notice was issued to the petitioner alleging that when he was working in Ariyalur branch, suspicious current accounts in the name of Commercial Tax Officer, Ariyalur were opened and a number of unauthorized transactions were carried out in the said account and the petitioner's login ID was also used. The petitioner gave his explanation on 03.08.2017.

2. The stand of the petitioner is that he was not a party to any of the transactions and N.Sridharan, Senior Manager in branch incharge who had good knowledge over technical matters had made use of the petitioner's login ID and had carried out the transactions in question. Not satisfied with the petitioner's reply, an enquiry officer was appointed. Enquiry officer reported that the charges stood proved. The petitioner gave his representation in response to the report. The disciplinary authority concurred with the findings of the enquiry officer and passed order imposing the punishment of compulsory retirement. Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appellate authority also confirmed the order of the disciplinary action. The review petition was also rejected. Challenging the same, 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 called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Standing Counsel appearing for the Bank submitted that the impugned orders do not warrant interference.

5. I carefully considered the rival contentions and went through the materials on record. The articles of charge framed against the petitioner are as follows:

ARTICLES OF CHARGE

You are presently working as Manager at Trichy Railway Junction branch since 19.07.2017. Earlier you worked as Officer at Ariyalur branch from 06.05.2011 to 27.06.2014.

It was observed at the Ariyalur branch that a current account in the name of The Commercial Tax Officer, Ariyalur (2627.201.440) was fictitiously opened and a number of unauthorized transactions were put through in that account. A number of transactions were also put through in various SA and SL heads. Three VSLs were opened fictitiously and the proceeds were transferred to the above said fictitious account. The details of the VSL are as follows.

Loan Account No.	Loan Amount (lakhs)	Account open date
2627.793.26361	80	27.06.2014
2627.793.26362	90	27.06.2014
2627.793.26363	80	27.06.2014

केनरा बैंक Canara Bank

HRM SECTION, CIRCLE OFFICE, MADURAI

The balance in the fictitious current account 2627.201.440 in the name of Commercial Tax Officer was utilized for doing parallel banking for making various payments including several loan disbursements without opening the loan accounts in our books for payment of interest subvention on crop production loans, educational loans, payment of old age pension, etc.

You had put through a number of fraudulent transactions by debiting Current Account 2627.296.1, SD WOP 240004160, SL 209272430, SA 122422270 in your login id. You had failed to adhere to the systems and procedures while making the transfer of funds.

Various suspected fraudulent transactions were observed in your accounts and your close relative's accounts. You had misappropriated the bank funds and had made transfers to your relative accounts. You had also opened a FD in your name by misappropriating the funds from SL Head.

You were instrumental in effecting the fraudulent transactions by debiting Sundry Liabilities / Sundry Assets. By using your official position you had misappropriated the funds and thereby caused a huge loss to the bank.

By your above acts, you have grossly deviated from the guidelines of the Bank and resorted to unethical enjoyment of funds for personal needs and your actions are detrimental to the interest of the Bank.

The details of charges are more fully enumerated in the Statement of Imputations to Articles.

By your above acts, Bank has been exposed to huge financial risk/loss of Rs.4900980/- lakhs plus interest loss to the bank.

An explanation was called for from you vide letter no. MDUC HRM 3765 2017 dated 07/07/2017 and reply to the explanation submitted vide your letter dated 26/07/2017 was found to be neither convincing nor satisfactory.

By your above actions, you have failed to ensure and protect the interest of the Bank and failed to discharge your duties with utmost honesty, integrity, devotion and diligence and thereby contravened Regulation 3[1] read with Regulation 24 of Canara Bank Officer Employees' [Conduct] Regulations 1976 which is a misconduct punishable under the provisions of Canara Bank Officer Employees' [Discipline & Appeal] Regulation 1976.

6. The stand of the petitioner is that he was not a party to the transactions. He wants to put the entire blame on the Branch Manager N.Sridharan. The enquiry officer has rendered several adverse findings against the petitioner. I do not want to traverse them at length. However, following findings clinch the issue against the petitioner :-

> The transactions put through on 27.05.2014, 20.06.2014, 27.06.2014 for Rs.10005/-, Rs.13000/- and Rs. 12000/- are to be analyzed specifically since the amounts were transferred to the SB accounts of the CSO and his close relatives.
>
> The transaction on 27.05.2014 for Rs.10005/- was put through by the CSO and the same was authorized by the then branch in charge's id. The amount was transferred to the account of Smt. Manonmani (mother of CSO) 1227.101.20411 and the amount was withdrawn on the next day itself.
>
> The transaction on 04.01.2013 for Rs.12000/- was put through by the CSO and the same was authorized by the then branch in charge's id. The amount was transferred to the account of Smt. Revathi (wife of CSO) 1227.101.35700 and the amount was withdrawn on the next day itself.

> The transaction on 20.06.2014 for an amount of Rs.13000/- parked in SD was transferred to the SB account (1227.101.22122) of the CSO. The transaction was put through by the CSO and the same was authorized by the then branch in charge's id.
>
> From the above said transactions it is evident that the CSO had obtained undue gain since the amounts were transferred to the SB account of the CSO and his close relatives. If the CSO was not aware of the said transactions then he could have informed the same to his higher authorities whereas the amounts were withdrawn on the next day itself.

On 26.06.2014, 27.06.2014 and 18.06.2014 amounts of Rs.8455/-, Rs.11244/- and Rs.11790/- were transferred from SL 2092072430 to the SB account 1227.101.20411 of Smt. Manonmani (mother of CSO). The transactions were put through the CSO's login id and the same was authorized by the then branch in chare's login id. The said amounts were kept in SL 209272430 for other-purposes wherein the amounts were transferred to the SB account of the mother of the CSO. The amounts were also withdrawn using ATM on the next day of the transactions.

This indicates that the petitioner is not as innocent as he claims to be. From the said fraudulent account, monies have been transferred to the account of his wife and mother and later withdrawn also. The banking employee has to maintain the highest standards of integrity. The petitioner also failed to maintain the secrecy of the password. As noted by the enquiry officer, the petitioner was bound to make verification of the day's transactions. He had not done so. That is why the employer chose to show the door to the petitioner.

7. The Hon'ble Supreme Court in a recent decision reported in ***2022 LiveLaw (SC) 998 (Union of India & Others Vs Subrata Nath)*** laid down the parameters had held as follows:

> "22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be

> adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor."

The petitioner was given the fullest opportunity to defend his case. Enquiry authority had gone into the matter fully and rendered findings that the charges stood proved. The enquiry authority has not arbitrarily dealt with the issue. The enquiry report is well reasoned. The disciplinary authority, appellate authority as well as revisional authority have all discussed the petitioner's contentions and thereafter concurred with the findings of the enquiry officer. No case for interference has been made out.

8. This writ petition is dismissed. There shall be no order as to costs.

19.06.2023

Index : Yes / No

Internet : Yes / No
NCC : Yes / No
MGA

G.R.SWAMINATHAN, J.

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