



WEB COPY



W.P.(MD)No.3589 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3589 of 2014

S.Chockaiah (Died)

1.Sundaravaruni

2.Sundaraganesh

3.Nikhilashri

... Petitioners

vs.

1.The General Manager (NW-I),

State Bank of India,

LHO, Circle Top House,

16, College lane,

Chennai-6.

2.The Chief General Manager,

State Bank of India,

LHO, Circle Top House,

16, College lane,

Chennai-6.

... Respondents

***(P1 to P3 are substituted, vide order, dated
29.03.2023, in W.M.P.(MD)No.2469 of 2023,
in W.P.(MD)No.3589 of 2014)***



W.P.(MD)No.3589 of 2014

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of punishment, dated 28.03.2012, of the 1st respondent and the impugned order of the 2nd respondent, dated 17.07.2013, issued in the reference A&R-89 of the 2nd respondent and to quash the same, to direct the respondents to reinstate the petitioner in service together with all the attendant benefits, back wages and continuity of service.

For Petitioners : Mr.R.V.Rajkumar
For Respondents : Mr.V.P.Rajan

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order of punishment, dated 28.03.2012, of the 1st respondent and the impugned order of the 2nd respondent, dated 17.07.2013, issued in the reference A&R-89 of the 2nd respondent and to direct the respondents to reinstate the petitioner in service together with



W.P.(MD)No.3589 of 2014

WEB COPY

all the attendant benefits, backwages and continuity of service.

2. The petitioner joined the banking service as Clerk cum Cashier in State Bank of India on 09.07.1979. He was promoted as Assistant Manager and subsequently, he received promotion to various posts. The allegation against the petitioner is that while sanctioning loans 64 self-help groups under the name of SEVA Trust and 28 self-help groups under the name of Jeyam Women Trust has not followed the Know Your Customer (KYC) norms. The contention of the petitioner is that the respondents have alleged that there is loss but there is no loss at all as sufficient security is available to the bank.

3. The further contention of the petitioner is that the respondents have conducted an enquiry without following the principles of natural justice and the enquiry is an empty formality. The respondents without



W.P.(MD)No.3589 of 2014

WEB COPY

considering the relevant materials and without considering the fact that major charges were not proved, the respondents had imposed punishment of dismissed from service on 28.03.2012. The petitioner filed an appeal to the 2nd respondent on 11.05.2012, which was dismissed, vide order, dated 17.07.2013, without considering the grounds raised in the appeal. Aggrieved over the orders, the present writ petition is filed.

4. Heard Mr.R.V.Rajkumar, the Learned Counsel appearing for the petitioner and Mr.V.P.Rajan the Learned Standing Counsel appearing for the respondents and perused the documents.

5. The first contention of the petitioner is that along with the charge memo, the list of documents that would be relied on the enquiry proceedings was not furnished to the petitioner. Moreover, during the time of enquiry, the petitioner was allowed to peruse the xerox copies of



W.P.(MD)No.3589 of 2014

WEB COPY

the documents that were relied on by the respondents. However, the petitioner was not granted the copies of the documents that were relied on, thereby there is serious violation of principles of natural justice. But this was refuted by the respondents by citing that the contention was not raised before the enquiry officer and the appellate authority. Therefore, the petitioner is debarred from raising the same before this Court. However, this Court is of the considered opinion that the respondents ought to have circulated all the documents if they are relying on such documents. It is a settled proposition that all the documents should be served on the delinquent. Even if the petitioner is not seeking the documents, it is incumbent on the respondents to serve the same.

6. The charges against the petitioner is that the petitioner did not adhere to the Know Your Customer norms and the bank instructions for opening the savings bank accounts for self-help groups thereby,



W.P.(MD)No.3589 of 2014

WEB COPY

facilitated Mr.V.Mathivanan, Senior Assistant, Modagam Branch and V.Sountharapandian, Daily Wager of the same Branch to commit serious irregularities for the advances to the self-help group and caused loss to the Bank. There are other serious supplementary charges where it has given details about the self-help group. Subsequently, the respondents also issued 2nd charge memo. According to the petitioner there is a serious discrepancy, in the 1st charge memo and 2nd charge memo. The 2nd charge memo is totally deviating from the 1st charge memo and both are totally differing from each other. The respondents have conducted a common enquiry for both the charges. Therefore, it is violative of principles of natural justice and norms prescribed for conducting enquiries. But the contention of the respondents is that the respondents are empowered to conduct a common enquiry if they decide to do so. The learned Counsel appearing for the respondents vehemently opposed stating that there is no violation of principles of natural justice. The



W.P.(MD)No.3589 of 2014

WEB COPY

petitioner was granted adequate opportunity and the petitioner has participated in the enquiry. Moreover, such a ground was not raised before any authority. On perusing the charges, it is seen that the first charge memo is totally inconsistent with the second charge memo and it has to be considered as two separate charges. Therefore, this Court is of the considered opinion that the respondents ought to have conducted two separate proceedings. Hence, there is violation of procedures of conducting enquiry.

7. The 1st respondent is the appointing authority and has simply accepted the reasoning stated by the enquiry officer and has simply concluded the proceedings by stating he concur with the view of the disciplinary authority and held the charges as proved. In each and every charge, the 1st respondent has passed a “one line” order which is extracted here under:



W.P.(MD)No.3589 of 2014

WEB COPY

*“I concur with the view of the DA and hold the Charge
No.1-Item No.1(a) & 1(b) as PROVED.”*

However, the Learned Counsel for respondents refuted the allegation and submitted that the authority has passed the order after considering the submissions of the petitioner. Since the authority has concurred with the reasoning cited by the enquiry officer, the one line order was passed, hence the same cannot be found fault with. However, this Court is of the considered opinion that the appointing authority should state the reasons why he has accepted the report of the disciplinary authority. Therefore, this Court is not accepting the contention of the respondents. It is seen even the appellate authority has not stated any reasons, in spite of the fact that the petitioner had raised various grounds. Therefore, this Court is of the considered opinion both the original authority order and the appellate authority order is non-speaking order.



W.P.(MD)No.3589 of 2014

WEB COPY

8. The learned Counsel appearing for the respondents submitted that the petitioner has accepted that he has sought the assistance of the Mathivanan and Sountharapandian, which will be evident from the enquiry officer's findings and the relevant portion is extracted hereunder:

“Inquiry Officer's findings:

The CSO has allowed Sri Mathivanan and Sri Soundrapandian to take upper hand in the process of SHGs lending

The DR in his defence arguments told that CSO has never doubted the integrity of Mathivanan because he has put up 18 years of service in the Bank. Sri Mathivanan along with his brother Pannerselvam cunningly has plotted to cheat the Bank and took the assistance of Shri Sundrarapandian also. These arguments do not give clear chit to the CSO and he can not claim that he acted inadvertently or innocently. He has sanctioned and disbursed huge amount on the basis of the documents prepared by Sri Mathivanan and Sri Pannerselvam and therefore, he did not follow the laid down systems and procedures.”

Having accepting so, the petitioner again reverted back and stated that he had not involved in the misconduct. More so, the petitioner has stated



W.P.(MD)No.3589 of 2014

WEB COPY

inadvertently and innocently has accepted the assistance of the said Mathivanan and Sountharapandian. However, this Court on perusing the same is of the considered opinion that the said Mathivanan may not be working in the same Branch but he is an employee of the State Bank of India in a different Branch. Therefore, that cannot be found fault with.

9. The further contention of the respondents is that the petitioner ought to have verified the account for a period of six months and verified the transactions in the account, only thereafter, the petitioner ought to have sanctioned the “self help groups”. The petitioner without verifying the transactions in the savings account has sanctioned the amount to the self help group within two months. Moreover, the further allegation is that the SEVA Trust is a non-existent group. The petitioner has sanctioned for a non-existent group. For this the petitioner submitted the copy of the reply granted under Right to Information Act, which would



W.P.(MD)No.3589 of 2014

WEB COPY

indicate that the SEVA Trust was functioning as SEVA and it is affiliated with the Tamil Nadu Government and the same is extracted hereunder:

“சேவா டிரஸ்ட்” என்ற நிறுவனம் மகளிர் திட்டத்தில் பதிவு செய்யப்படவில்லை என்ற விபரம் பார்வை 2ல் காணும் இவ்வலுவலகக் கடிதத்தின் வாயிலாக தெரிவிக்கப்பட்டது.

மகளிர் திட்டத்தில் “சேவா” என்ற பெயரில் மட்டுமே தொண்டு நிறுவனம் செயல்பட்டது. மனுதாரர் கோரியுள்ள விபரங்கள் பின்வருமாறு.

1. ‘சேவா’ 1997ம் ஆண்டு பதிவு செய்யப்பட்டது.
2. ‘சேவா’ தற்போது மகளிர் திட்டத்தில் உறுப்பினராக இல்லை
3. 30.9.10 முதல் விலக்கப்பட்டது
4. 30.9.10 அன்று தலைமை அலுவலகத்தில் நடைபெற்ற, 113வது Board meetingல், வெளியிடப்பட்ட ‘Disaffiliation orders’ படி விலக்கப்பட்டது.

Therefore, the contention of the respondents that the SEVA group is a non-existence group is incorrect.

10. The learned Counsel appearing for the respondents further relied on the judgment rendered by the Hon'ble Supreme Court in the



W.P.(MD)No.3589 of 2014

WEB COPY

case of ***Deputy General Manager (Appellate Authority) and others Vs.***

Ajai Kumar Srivastava and the relevant portion of the judgment is

extracted hereunder:

“43. Before we conclude, we need to emphasize that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24th July, 1999 confirmed in departmental appeal by order dated 15th November, 1999. “

The learned Counsel for the respondents further submitted that the employee should act with integrity and honesty and it should be absolute devotion to the work. In the present case, the allegation against the petitioner is that he has opened the account without following Know Your Customer norms. Had the petitioner followed the same, the bank would not have incurred any loss. The learned Counsel for the petitioner



W.P.(MD)No.3589 of 2014

WEB COPY

submitted that there is no loss to the bank at all. Therefore, in such circumstances, the judgment relied on by the respondents is not applicable to the present case. Since there is no loss, the contention of the respondents is not acceptable.

11. Considering all these factors, this Court is of the considered opinion that even if the case of the respondents is accepted then the punishment is disproportionate, hence this Court is inclined to interfere in the punishment order. Pending writ petition, the petitioner died and the legal heirs of the petitioner have filed the impleading petition and the same is allowed by this Court. Hence, the impugned order is set aside and the punishment is modified as compulsory retirement and the date of retirement is the date of superannuation, i.e., 31.05.2016. The respondents shall calculate the service period from 09.07.1979 (the date of joining the service) to 31.05.2016 (the date of dismissal) pay all the



WEB COPY



W.P.(MD)No.3589 of 2014

terminal benefits and pensionary benefits applicable to the compulsory retirement to the legal heirs of the deceased employee. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

12. With the above said observation, the writ petition is allowed.

No costs.

Index : Yes / No

Internet : Yes

NCC : Yes / No

29.03.2023

(2/2)

Tmg



WEB COPY



W.P.(MD)No.3589 of 2014

S.SRIMATHY, J

Tmg

W.P.(MD)No.3589 of 2014

29.03.2023
(2/2)