IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 18TH DAY OF JANUARY 2024 / 28TH POUSHA, 1945

WP(C) NO. 59 OF 2024

PETITIONER:

SAJEEVAN G
AGED 52 YEARS
SREE MURUKALAYAM HOUSE, THAZHAVA P.O., KARUNAGAPALLY, KOLLAM DISTRICT, PIN - 690523

BY ADVS.
ARUN CHANDRAN
ANJALY T.A
HARIMOHAN
ASWATHY S MENON

RESPONDENTS:

1 THE BANKING OMBUDSMAN
RESERVE BANK OF INDIA BUILDING, BAKERY JUNCTION, THIRUVANANTHAPURAM, PIN - 695003

2 THE RESERVE BANK OF INDIA,
BAKERY JUNCTION, THIRUVANANTHAPURAM REPRESENTED BY ITS REGIONAL DIRECTOR, PIN - 695033

3 CANARA BANK
KARUNAGAPALLY BRANCH, NOOR BUILDING, MAIN ROAD, KARUNAGAPALLY, KOLLAM DIST, KERALA REPRESENTED BY ITS AUTHORIZED OFFICER, PIN - 690518

BY ADVS.
Gopikrishnan Nambiar M
K.JOHN MATHAI(K/413/1984)
JOSON MANAVALAN(J-526)
KURYAN THOMAS(K/131/2003)
PAULOSE C. ABRAHAM(MAH/58/2006)
RAJA KANNAN(K/356/2008)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner impugns Ext.P11 order of the 1st respondent – Banking Ombudsman, whereby, his complaint against the 3rd respondent – Canara Bank, relating to the levy of certain additional interest has been found to be not tenable.

2. Smt.Anjaly T.A. - learned counsel for the petitioner, vehemently argued that Ext.P11 is incompetent, both on facts and law; and explained that the said order has been issued merely accepting the version of the Bank, without her client being given opportunity of showing cause against it. She then added that, as is evident from Ext.P11, no reasons have been stated by the learned Ombudsman in rejecting her client's complaint; and that this is glaring by the further fact that, though it starts by saying that the submissions made and the supporting documents have been carefully examined, it cites no reasons for the conclusion that the "*Regulated Entity was not found to be deficient in rendering the customer service*" (sic). She thus prayed that Ext.P11 be set aside and the Ombudsman be directed to reconsider the matter, after affording necessary opportunity to her client also.

3. Sri.Gopikrishnan Nambiar – learned Standing Counsel appearing for the 3rd respondent – Canara Bank, submitted that the

learned Ombudsman has issued Ext.P11 accepting Ext.P9 explanation given by his client, and, therefore, that it cannot be found to be in error. He, however, conceded, to a pointed question from this Court, that Ext.P11 does not carry any specific reason why the Ombudsman has concluded that there was no deficiency in service; and thus prayed that if this Court is not inclined to accept it for that reason, then the matter may be remitted to the said Authority for a fresh consideration; but further praying that this Court may not make any affirmative declarations in favour of the petitioner in this judgment.

4. I have examined Ext.P11, which is the order impugned.

5. I find favour with the submissions of the petitioner, as made by his learned counsel - Smt.Anjaly T.A., that the afore said order does not cite any specific reason, for concluding that there was no deficiency in service on the part of the Bank. One can only, therefore, bank upon presumptions and conjunctions for the conclusion of the Ombudsman; and as argued by Sri.Gopikrishnan Nambiar it can either be taken that the said Authority relied exclusively on Ext.P9 explanation of the Bank, or that it had taken into certain other factors also. As long as these are not clear from Ext.P11, I am afraid that this Court cannot find favour with it.

In the afore circumstances, I allow this writ petition and set aside

Ext.P11; with a consequential direction to the 1st respondent – Banking Ombudsman to reconsider the complaint of the petitioner, following due procedure and after affording both sides necessary opportunities of being heard; thus culminating in an appropriate order and necessary action thereon, containing all the reasons as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

MC/22.1

APPENDIX OF WP(C) 59/2024

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE SECURED OVER DRAFT GRANTED TO THE BUSINESS ENTERPRISES OWNED BY THE WIFE OF THE PETITIONER IN THE NAME AND STYLE AS M/S MURUKALAYAM YAMAHA BY THE RESPONDENT BANK DATED 29.01.2016
Exhibit P2	TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO WAIVE OFF THE EXCESS INTEREST CHARGED BY THE BANK ADDRESSING THE SENIOR MANAGER, RESPONDENT BANK DATED 20.08.2019
Exhibit P3	TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO THE MANAGER OF RESPONDENT BANK DATED 17.02.2021
Exhibit P4	TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO THE MANAGER OF RESPONDENT BANK DATED 17.09.2021
Exhibit P5	TRUE COPY OF THE LEGAL NOTICE ISSUED BY THE PETITIONER ADDRESSING THE RESPONDENT BANK DATED 07.03.2022
Exhibit P6	TRUE COPY OF THE COMMUNICATION ISSUED BY THE SENIOR BRANCH MANAGER OF RESPONDENT BANK DATED 04.04.2023
Exhibit P7	TRUE COPY OF THE COMPLAINT LODGED BY THE PETITIONER ADDRESSING THE RESPONDENT OMBUDSMAN DATED 26.06.2023
Exhibit P8	TRUE COPY OF THE ACKNOWLEDGEMENT ISSUED BY THE RESERVE BANK OF INDIA DATED 06.07.2023
Exhibit P9	TRUE COPY OF THE REPLY (ROKLM/OPE/10/2023-24) FILED BY THE RESPONDENT BANK IN RBIO COMPLAINT NO. N202324023154630 DATED 16.08.2023
Exhibit P10	TRUE COPY OF THE REPLY FILED BY THE PETITIONER IN PURSUANCE TO EXHIBIT - P9 REPLY FILED BY THE RESPONDENT BANK IN RBIO COMPLAINT NO. N202324023154630
Exhibit P11	TRUE COPY OF THE CLOSURE INTIMATION ISSUED BY RESPONDENT OMBUDSMAN VIA EMAIL IN COMPLAINT NO. N202324023154630 DATED 12.10.2023