IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	**08.02.2024**
Pronounced on	**22.03.2024**

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

W.P.No.5904 of 2021

T.Anbu ... Petitioner

Vs.

1. State Bank of India,
   Rep.by its Chief General Manager,
   (Appellate Authority) Appeals &
   Review Department,
   Local Head Office,
   Circle Top House, IV Floor,
   16, College Lane,
   Nungambakkam,
   Chennai - 600 006.

2. The General Manager (NW-I) &
   Appointing Authority,
   State Bank of India,
   G.M.Network - I office,
   Local Head Office,
   Circletop House,
   7th Floor, 16,
   College Lane,
   Chennai – 600 006. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of

India, to issue a Writ of CERTIORARIFIED MANDAMUS to call for the records from the 1st Respondent relating to the order dt. 16.03.2020 bearing Reference No. A & R/261 read with the order of the 2nd Respondent dt. 2.8.2019 bearing reference No. VIG/ESR/152, and quash the same as illegal, arbitrary, perverse, without jurisdiction and to consequently direct the Respondent Bank to reinstate the Petitioner back in service together with back wages including increments, revisions, promotion etc., which the Petitioner would have got had he not been dismissed from service with interest.

For Petitioner : Mr.K.Srinivasa Murthy
for M/s.Row & Reddy

For Respondents : Mr.S.Ravindran, Senior counsel for
Mr.S.Bazeer Ahamed.

ORDER

Heard, Mr.K.Srinivasa Murthy, learned Counsel for the petitioner and Mr.S.Ravindran, learned Senior counsel for the respondents and perused the materials available on records.

2. A Writ of Certiorarified Mandamus has been filed by the petitioner to challenge the impugned order passed by the first respondent regarding the order dated 16.03.2020 with Reference No.A&R/261 read with the order of the second respondent dated 2.8.2019 with Reference

No. VIG/ESR/152 and to quash the same as unlawful, arbitrary, perverse, and without jurisdiction and to direct the respondent bank to reinstate the petitioner back into service along with back wages, including promotions, increments, and other benefits that he would have received had he not been dismissed from service with interest.

3. The petitioner was working as a Rural Marketing and Recovery Officer [RMRO] which post was later designated as Officer, JMGS I. Lastly, he was working at Kallakurichi Branch of the respondents/State Bank of India. On 04.06.2012, the petitioner was issued with a charge memo for two counts. The first charge was that the petitioner had unauthorizedly transferred funds from one customer by name M.Neelakandan's bank account to the account of a temporary staff of the Bank by name K.Vijayan by forging the signature of the customer. The second charge is remitting back the amount later to the customer's account after misappropriating the amount so drawing through K.Vijayan.

4. Prior to the issuance of the charge memo, the petitioner was placed under suspension on 22.11.2011. Enquiry proceedings were initiated and the Enquiry Officer had filed the report that the charges against the petitioner were proved. Hence, the petitioner was imposed with the punishment of dismissal from service.

5. An appeal filed by the petitioner was rejected by the 1st respondent. The petitioner challenged the same by way of filing a Writ Petition in WP.No.31375 of 2016 and the same was disposed through an order dated 17.07.2018 by setting aside the order of dismissal and with a direction to examine the material witnesses like the Branch Manager and the customer. But at the end of the enquiry, the charges against the petitioner were held to be proved and he was imposed with the very same punishment of dismissal from service on 02.08.2019 by the 2nd respondent. The petitioner filed an appeal challenging the same and the same was also rejected on 16.03.2022. Aggrieved over that the petitioner has filed this petition.

6. Mr.K.Srinivasa Murthy, learned Counsel for the petitioner submitted that despite the bank was given with an opportunity to cross examine the material witnesses, they did not opt to do so. But the petitioner examined the customer by name M.Neelakandan and he has stated that the messenger K.Vijayan was his son's friend and he only requested a withdrawal slip for Rs.1,90,000/- on 11.11.2011 for the financial assistance requested by K.Vijayan. He further stated that he did not give any complaint to the bank or to the police by alleging that the petitioner had misappropriated a sum of Rs.1,90,000/- by forging his signature. He has further stated that the Branch Manager obtained customer's signature on a blank sheet by stating that the signed paper is required for processing the tractor loan application of the customer. So according to the submission of the learned counsel for the petitioner, it was the Branch Manager who had given the complaint to the police with malicious intention.

7. It is further submitted that the petitioner was found guilty only on the basis of the records showing the remittance of money made by him to the account of the customer. The police case has been dropped. It is further submitted that Messenger K.Vijayan has also supported the evidence of the customer Neelakandan and stated that he only requested the customer to issue withdrawal slip to him in order to meet out his financial emergency. Hence he submitted that the charges are baseless and the punishment of dismissal is unjust and perverse.

8. From the submission of Mr.S.Ravindran, learned standing counsel for the respondents, the petitioner's duty as Officer Marketing

Rural (OMR) were as under:

i. Sourcing of loan applications, verification of papers submitted with the application, carry out pre sanction survey in respect of loan proposals and recommend for sanction to Branch Manager/CM (RCPC).
ii. Processing & Recovery of high value Agri Loans.
iii. Sanction of loans when posted as Field Officers as per their discretionary powers.
iv. Undertake recovery of loan in all segments (both standard and NPAs) from the territory allotted to them.
v. Responsible for ensuring larger market shares in agriculture loan segment and greater recovery in assigned territory.
vi. Focusing on Non-Agri and self employed customers including SME owners, cottage industries, transporters, auto dealers, self employed, salaried workers, rural artisans, institutions, trusts etc.
vii. Exploring potential for development of SMEs and other non Agri businesses and promote advances in these areas.
viii. Building relations with big retailers, transport operators and other high value non-Agri employed customers, for

business leads.

ix. Maintaining liaison with non-farm societies like weaver's co- op societies/ NGOs etc.

9. The petitioner has not been given with any responsibility of processing the monetary transaction of the customers. The enquiry conducted by the Bank had revealed that the petitioner had involved himself in processing the monetary transaction of the customer by name M.Neelakandan through a withdrawal slip alleged to have been signed by him and credited the amount in the account of K.Vijayan who was a messenger. K.Vijayan had also withdrawn the amount so credited in his account.

10. On being alerted about the fraudulent transaction, the Branch Manager went to the residence of M.Neelakandan and came to know that M.Neelakandan had not transacted any amount on the previous day. After obtaining the statement from the customer, the Branch Manager enquired the petitioner and the petitioner had remitted back a sum of Rs.1,50,000/- to the credit of M.Neelakandan on 16.11.2011 and Rs.40,000/- on 17.11.2011, respectively.

11. Firstly the petitioner was not given with the duty of processing the withdrawal slip of the customers and do the monetary transaction. Even at some stretch of imagination, if the petitioner was given with such a responsibility, the amount pertained to the withdrawal slip ought to have been credited in the account of the customer, not in the account of a 3rd party by name K.Vijayan. Even though it is claimed by K.Vijayan that he had obtained the withdrawal slip from the customer by requesting the customer to do some financial assistance, the petitioner does not have any authority to credit the amount directly to K.Vijayan's account.

12. The fact that the petitioner had done the said transaction was not denied by him. The messenger K.Vijayan cannot deny that in pursuant to the alleged transaction of money due to the customer, was credited in his account and that the petitioner also remitted the sum in two payments in the account of the customer on 16.11.2011 and 17.11.2011 respectively.

13. This kind of allegation of illegal transaction of this nature cannot give much scope for oral evidence. The petitioner did not owe any explanation for remitting the amount in the account of the customer in the subsequent days. If K.Vijayan had requested the customer for financial assistance, it is he who had to repay the amount to the customer and not the petitioner. In fact the petitioner was not authorized to credit any money by withdrawal slip given by a customer to the account of the messenger. The petitioner primarily relies on the evidence of the customer where he said that the signature in the withdrawal slip was only affixed by him at the request of the messenger by name K.Vijayan.

14. When these kind of allegations were made against the staff of the bank, the customers primary concern would be to save his money. In this present case also the customer's money was secured through the later remittance made by the petitioner himself. It is possible to convince the customer at a later point of time to save a life of the petitioner. The messenger K.Vijayan was also in trouble in view of unauthenticated remittance made to his account. So the messenger K.Vijayan also left with no other option except to state that the withdrawal slip was singed by the customer at his request for financial help.

15. As stated already the conduct of the petitioner is spoken clearly by the documents rather than the oral statements of the witnesses. Just because the petitioner could win over some of the witnesses and get a statement from them subsequently the enquiry officer cannot be expected to brush aside the documentary evidence and evaluate the materials for giving a finding as to the charges raised against the petitioner. The petitioner by his own conduct by involving himself in a duty which was not assigned to him and thereafter remitting the amount in the account of a third party through a withdrawal slip and after the questionable transaction was found out by remitting the amount back into the account of the customer, had revealed his involvement in the impugned transaction. The petitioner did not bring out any acceptable grounds before this court to interfere with the order of dismissal passed by the 2nd respondent and confirmed by the 1st respondent Appellate Authority.

16. Persons like the petitioner who are working in the nationalized bank like State Bank of India are expected to have the highest level of integrity while handling funds of the bank. Even though there are various types of investment, the public perceive the bank alone as the safest option. The customers of the bank genuinely believe that if their money is deposited in the bank, it will be in safer hands. If such a trust is shattered and the public confidence is put at risk by a staff employed in the bank, it would be nothing but the fence eating the crops. Such staff does not require any lenient outlook except to dispense the service of the black sheep.

17. The records does not show any malicious intention on the part of any authorities of the bank and neither the enquiry officer's report is seen to be perverse or unjust. The punishment of dismissal from service is suiting to the magnitude and seriousness of the charges proved against the petitioner. In the matters of disciplinary proceedings, the court cannot re appreciate the evidence like that of an Appellate Authority and the writ jurisdiction over such proceedings is very limited**.**

18. In this regard, it is relevant to refer a Division Bench judgment of the Hon'ble Supreme Court in ***Union of India V. P. Gunasekaran (2015)*** [reported in **(2015) 2 Supreme Court Cases 610]** wherein, it is held that the Court can interfere only during the following circumstances:

> *"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
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> *(a) the enquiry is held by a competent authority;*

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;"

19. In the instant case none of the above grounds has been established in order to interfere with the orders of removal passed by the 2nd respondent and confirmed by the 1st respondent. The petitioner's action does not deserve any sympathy and hence the matter does not deserve any re-appreciation on the ground of sympathy or mercy. I don't find any valid grounds made out in order to render the impugned orders as illegal perverse and unjust. Since the Writ Petition is devoid of any merits, it is liable to be dismissed.

In the result, this Writ Petition stands **dismissed**. No costs.

22.03.2024

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking
Neutral Citation : Yes/No

jrs

R.N.MANJULA, J.

jrs

To
1. State Bank of India,
Rep.by its Chief General Manager,
(Appellate Authority) Appeals &
Review Department,
Local Head Office,
Circle Top House, IV Floor,
16, College Lane,
Nungambakkam,
Chennai - 600 006.

2. The General Manager (NW-I) &
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