BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.10885 of 2022 and
WMP(MD) Nos.7857 & 7858 of 2022

Chockalingam .S.P ... Petitioner

Vs

1.Indian Overseas Bank Limited,
Rep. by Its,
Chief Executive Officer and Managing Director,
Indian Overseas Bank Limited,
No.763, Anna Salai,
Chennai-600 002.

2.The Head of Human Resources and
Development Pension Cell,
Indian Overseas Bank Limited,
Central Office,
No.763, Anna Salai,
Chennai-600 002. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus, calling for the records of the impugned order passed by the 2nd Respondent herein in his proceedings in HRMD/Pension/820/2020-2021 dated 06.02.2021 and consequential order passed in HRMD/Pension/198/2020-2021 dated 26.10.2021 and quash the same as illegal and further direct the second Respondent herein to revoke the order withholding 50% of basic pension and release my full pension payment with arrears by considering my representation dated 18.03.2022 within a time stipulated by this Court.

For Petitioner	: Mr.D.Nallathambi
For Respondents	: Mr.N.Dilip Kumar Standing Counsel

ORDER

The petitioner, a retired bank employee has filed this writ petition as against the communication of the respondent Bank, dated 06.02.2021 and 26.10.2021. By the communication, the respondent Bank has intimated this petitioner that as per the orders of the disciplinary authority in DO:DA:DGM/(NRP):VIG:F 1009:2021-2, dated 31.12.2020, the basic pension of this petitioner is withheld for a period of 10 years from 01.02.2021.

2.The learned counsel for the petitioner submits that this petitioner was joined duty in the respondent Bank on 11.10.1976 and retired from service on 30.11.2017. He further submits that on certain allegations, the respondent Bank has initiated disciplinary proceedings and withhold 50% of the pension benefits of this petitioner. According to the petitioner, the respondent Bank is not supposed to conduct any disciplinary proceedings after his retirement and withhold the pension benefits.

3.The learned Standing Counsel for the respondent bank submits that this petitioner by suppressing certain material facts has taken money from the respondent bank for the pension benefits of his father in between 11.01.2013 to 02.03.2015. This was detected only after his retirement and therefore, a disciplinary proceedings was initiated as against this petitioner, as per the Regulation 45 of Indian Overseas Bank (Employees') Pension Regulations, 1995. The petitioner was also issued with a charge memo on 11.02.2020 and he has submitted his reply on 24.02.2020, however, he has not participate in the enquiry. Therefore, with the available materials, the disciplinary authority has concluded the enquiry and imposed a punishment on 31.12.2020, based on which, 50% of the pension benefits of the petitioner was withheld by the respondent Bank from 01.02.2021.

4.The learned Standing Counsel appearing for the respondent Bank by referring Regulation 43 of Indian Overseas Bank (Employees') Pension Regulations, 1995 submits that the competent authority may also withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or criminal breach of trust or forgery or acting fraudulently or is found guilty of grave misconduct.

5.In reply, the learned counsel for the petitioner submits that the enquiry was conducted after his retirement and also without providing sufficient opportunity to this petitioner. The learned counsel further submits that the departmental proceedings cannot be initiated belatedly i.e. in the year 2020, for the delinquency said to have committed in the year 2013 to 2015, for which, the learned counsel has relied upon regulation 48(2) of Indian Overseas Bank (Employees') Pension Regulations, 1995.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7. Admittedly, the order impugned in this writ petition is a consequential communication, pursuant to the punishment imposed on this petitioner on 31.12.2020 in the disciplinary proceedings. The fact remains that the petitioner has not challenged the order of punishment dated 31.12.2020. The petitioner claims that without providing sufficient opportunity, the respondent Bank has conducted the enquiry and it was ended with the punishment. On the side of the respondent Bank, it is claimed that though the petitioner

was provided with sufficient opportunity, he has not participated in the enquiry and therefore, the respondent Bank has proceeded with the enquiry with available materials and imposed with the punishment as per regulation 45 of Indian Overseas Bank (Employees') Pension Regulations, 1995. More over, the order of punishment dated 31.12.2020 is not before this Court. For better appreciation, regulations 43, 45 and 48 of Indian Overseas Bank (Employees') Pension Regulations, 1995 are extracted as under:

> ***43. Withholding or withdrawal of pension:-***
> *The Competent Authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or criminal breach of trust or forgery or acting fraudulently or is found guilty of grave misconduct: Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the minimum pension per mensem payable under these regulations.*
>
> ***45. Pensioner guilty of grave misconduct: -*** *In a case not falling under regulation 44 if the Competent Authority*

considers that the pensioner is a prima facie guilty of grave misconduct, it shall, before passing an order, follow the procedure specified in the Indian Overseas Bank Officer Employees' (Discipline and Appeal) Regulation, 1976 or in Settlement as the case may be.

48. Recovery of Pecuniary loss caused to the Bank:-

(1) The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or for acts done fraudulently during the period of his service: Provided that the Board shall be consulted before any final orders are passed: Provided further that where a part of pension is withheld or withdrawn the amount of pension drawn by a pension shall not be less than the minimum pension payable under these regulations: Provided also that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were commenced in the same manner as if the employee had continued in service:

(2) No departmental proceedings, if not instituted while

the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution:

Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service. (3) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at rate exceeding one -third of pension admissible on the date of retirement of the employee:

8.In view of the above and considering the submissions made on behalf of the respondent bank that the order impugned in this writ petition is only a consequential communication, issued by the respondent Bank, pursuant to the order of punishment, dated, 31.12.2020, this Court is not inclined to interfere with the same.

9.Accordingly, this writ petition is disposed of with liberty to this petitioner to challenge the order, dated 31.12.2020 in the manner known to law. Considering the submission of the learned counsel for the petitioner that pursuant to the consequential order, the respondents have detected 50% of the pension, there shall be a direction to the respondent Bank not to implement the order impugned in this writ petition for a period of four weeks. No costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

NCC:Yes/No
Index:Yes
vrn

<u>**Note:**</u> Issue order copy **on 21.11.2024.**

To

1.The Chief Executive Officer and
Managing Director,
Indian Overseas Bank Limited,
No.763, Anna Salai,
Chennai-600 002.

2.The Head of Human Resources and
Development Pension Cell,
Indian Overseas Bank Limited,
Central Office,
No.763, Anna Salai,
Chennai-600 002.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.10885 of 2022 and
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