IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09-04-2025**

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

W.P No. 650 of 2022

and WMP.No. 699 of 2022

S.Kalavathi ..Petitioner

Vs

1.State Bank of India
Corporate Centre,
State Bank Bhavan,
Madame Cama Road,
Mumbai-400021.

2.State Bank of India,
Local Head Office,
"Circletop House", 5th Floor,
16, College Lane, Nungambakkam,
Chennai-600006. ..Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India for issuance of writ of certiorarified mandamus, calling for the records pertaining to the termination order issued by the 2nd respondent vide proceedings bearing No. HR-RC-3447 dated 25.11.2021 terminating the services of the petitioner from the post of Circle Based Officer (CBO) in the 1st respondent bank quash the same as illegal and unconstitutional and consequently direct the respondents 1 and 2 herein to reinstate the petitioner in service with continuity of service seniority arrears of salary and all other consequential benefits.

For Petitioner(s): M/s.Anna Mathew
For Respondents: Mr.M.L. Ganesh

ORDER

This writ petition is filed to call for the records pertaining to the termination order issued by the 2nd respondent vide proceedings bearing No. HR-RC-3447 dated 25.11.2021, terminating the services of the petitioner from the post of Circle Based Officer (CBO) in the 1st respondent bank quash the same as illegal and unconstitutional and consequently to direct the respondents 1&2 herein, to reinstate the petitioner in service with continuity of service and all other consequential benefits.

Gist of facts:

2.1 On the basis of an advertisement dated 27.07.2020, the petitioner applied for the post of Circle Based Officer (CBO), in the respondent Bank. The petitioner having cleared the written examination was called for an interview on 14.02.2021, thereafter provisionally selected for the said post and was appointed vide letter dated 12.03.2021. The petitioner was posted to the Singaperumal Kovil Branch, of the Bank as per the joining order dated 21.06.2021. As per the appointment order, the petitioner was kept under probation for six months.

2.2 While so, during the probationary period of the petitioner, the respondent bank verified the testimonials of the petitioner, including the referee report and upon verification of the same found that a FIR was registered against her by her former employee, ICICI Bank, Puducherry. The Bank sent a letter on 19.08.2021, to the petitioner calling for her explanation to the adverse report received from her nominated referee. The Bank, it appears also conducted an independent enquiry, which disclosed that the petitioner was involved in certain serious financial irregularities during her tenure with her previous employer, ICICI Bank, Puducherry. To the said letter, the petitioner submitted her reply on 26.08.2021, denying all the allegations. The respondent bank, not satisfied with the reply, issued the petitioner a show cause notice on 21.10.2021, calling for her explanation. The petitioner replied on 25.10.2021, requesting a copy of the referral report from her previous employee. The respondent bank vide its communication dated 25.102021, refused to furnish it on the ground of confidentiality. Thereafter the petitioner gave a reply on 28.10.2021, reiterating her stand that she did not furnish any incorrect/false information or suppressed any material facts. The petitioner along with her reply enclosed a copy of a certificate issued to her by the Grand Bazar Police Station (jurisdictional police station of Mission Street Branch of ICICI Bank) certifying that there was no case and FIR against her. Later, the respondent Bank issued the impugned termination order dated 25.11.2021, terminating the service of the petitioner with immediate effect.

2.3 The petitioner challenged the impugned order mainly on the ground that as the impugned termination order was punitive based on the alleged misconduct of misappropriation, a fair enquiry was mandatory as it would have enabled the petitioner to prove her innocence. The petitioner also submitted that the impugned order was violative of Chapter IV Rule 16(3)(a) of the State Bank of India Officer's Rules, 1992 and hence illegal and that the impugned termination order cast a stigma on the character of the petitioner resulting in ripping in the bud , her career.

2.4 The respondent/Bank filed a detailed counter and an additional counter stating, inter alia, that the petitioner was fully aware of the terms and conditions of the Advertisement calling for applications to the post of CBO. That the petitioner having willfully suppressed material facts, was terminated from service by invoking Clause 16 of the Advertisement; The respondent Bank stated that fair and reasonable opportunity was given to the petitioner to disprove the allegations levelled against her by her previous employees, but she failed to prove the same. According to the respondent Bank, based on the referee report, nominated by the petitioner herself, supported by its independent investigation, it was found that the petitioner had suppressed material facts thereby flagrantly violating the terms and conditions of advertisement and the appointment order. Hence the petitioner was terminated from service. The respondent in the additional counter affidavit stated that though it was not bound to serve notice or one month salary in lieu of notice, yet it remitted a sum of Rs. 67,242/- to the petitioner's account. The respondent therefore prayed that the writ petition deserved to be dismissed as devoid of merits.

3. Mrs. Anna Mathew, learned counsel for the petitioner submitted that the impugned termination order was punitive in nature as it created a stigma on the character and antecedents of the petitioner. The learned counsel therefore submitted that in the absence of an enquiry, giving an opportunity to the petitioner to prove her innocence, the impugned

termination order was illegal and liable to be set aside. The learned counsel further submitted that assuming that the termination order was not punitive, the respondents were bound to comply with Rule 16(3)(a) of Chapter (IV) of the State Bank of India Officers Service Rule, 1992. The learned counsel relied on the following judgments in support of her case;

(i) Anoop Jaiswal v. Government of India and another [(1984) 2 SCC 369]

(ii) State Bank of India and Others v. Palak Modi and Another [(2013) 3 SCC 607]

(iii) Avtar Singh v. Union of India and Others [(2016) 2 SCC 471]

(iv) Swati Priyadarshini v. State of Madhya Pradesh and Othrs [2024 SCC Online SC 2139]

4. Mr.M.L. Ganesh, learned counsel for the respondents on the other hand submitted that the petitioner was not entitled to any enquiry as she had flagrantly violated the terms and conditions of the advertisement and the appointment order, by willfully suppressing material facts. The counsel further submitted that the petitioner in her online application declared that all statements made in the application were true, complete

and correct and further confirmed that in the event it was found that any information was found to be untrue or incorrect at any stage, her appointment was liable to be terminated. The learned counsel further submitted that the respondent/Bank was not bound to give notice or pay one month's salary in lieu of notice and yet the bank had deposited Rs.67,242/- in the petitioner's account. The learned counsel for the respondent Bank relied on the following judgments in support of his submissions;

i. Satish Chandra Yadav Vs. Union of India & Others, [*MANU/SC/1243/2022]*.

ii. Rajasthan Rajya Vidyut Prasaran Nigam Limited and Others Vs. Anil Kanwariya [*MANU/SC/0660/2021]*.

iii. Daya Shankar Yadav Vs. Union of India & Others [*MANU/SC/0987/2010]*.

iv. Kendriya Vidyalaya Sangathan and Others Vs.Ram Ratan Yadav *[MANU/SC/0155/2003]*.

5. Heard both counsels and perused the materials placed on record.

6. The facts of the case are undisputed. The core issue is whether the impugned termination order based on the referee report and the bank's independent investigation is valid or not?

7. Let me first consider the submission of the bank regarding suppression of material facts by the petitioner. For this purpose the terms and conditions of the advertisement calling for applications for the post of CBO, have to be looked into. The relevant conditions in the advertisement relied on by the respondent's counsel are as follows:

> **<u>Important Note:</u>**
> ..
> *vii. Candidates against whom there is/are adverse report regarding character & antecedents, moral turpitude etc. are not eligible to apply for the post.*
>
> *viii. Candidates with record of default in repayment of loans / credit card dues and / or against whose name adverse report of CIBIL or other agencies is available, will not be appointed in case of selection. The position in this regard will be verified before joining.*
>
> **<u>ELIGIBILITY CRITERIA</u>**
>
> (E) Other: i. Candidates with record of default in repayment of loans / credit card dues and/or against whose name adverse report of CIBIL or other external agencies are available are not eligible for appointment.
>
> ii. Candidates against whom there is/are adverse report regarding character & antecedents, moral turpitude are not eligible to apply for the post.
>
> **<u>13. ACTION AGAINST CANDIDATES FOUND GUILTY OF MISCONDUCT:</u>**

Candidates are cautioned that they should not furnish any particulars or documents that are false, tampered / fabricated and they should not suppress any material information while filling up the application form.

16. DISCLAIMER:

In case it is decided at any stage of recruitment that a candidate does not fulfill the eligibility norms and / or that he / she has furnished any incorrect / false information or has suppressed any material fact(s), his / her / their candidature will stand cancelled. If any of these shortcomings is / are detected even after appointment, his / her / their services are liable to be terminated. Decisions of bank in all matters regarding eligibility, selection process would be final and binding on all candidates. No representation or correspondence will be entertained by the Bank in this regard.

8. In pursuance of the advertisement, the petitioner submitted her online application, a copy of which is marked in the typed set of papers at page no. 41. The information sought with reference to the above clauses of the advertisement are posed in columns 16,17,18 and para 19. They along with the petitioner's reply read as follows;

16. *Particulars of any prosecution / detention / fine / conviction / sentence against you awarded by any court of law for any offence – NIL*

17. *Particulars of cases pending against you in any court of law including case (s) for non-payment of any loan from Banks / Financial Institutions - NIL*

> ***18.*** *Particulars of disqualification / debarment by any Service Commission, examining body at their selection / examination - NIL*
>
> ***19***. *Particulars of any case(s) of disciplinary action instituted / pending against you by your present or previous employer (s). Please also state whether you were debarred from appearing in any promotional examination – NIL.*

9. From the reply to the information sought, it is clear that the petitioner furnished all the information as requested by the respondent/bank. According to the respondent/bank's counter, their concern is not with the information provided in the application, but rather with the information that came to their knowledge through the referral report and their own verification. It appears from the referral report and the bank's investigation, that an FIR was registered against the petitioner. However, it is pertinent to note that although the respondent/bank claims that an FIR was registered, the petitioner submitted a certificate from the Sub-Inspector of Police, Grand Bazar Police Station, Puducherry/the jurisdictional police station of Mission Street Branch, the petitioner's previous workplace at ICICI Bank. The certificate stated that the petitioner had not been convicted in any criminal case and that no adverse remarks were found in the records. By presenting the certificate, the

petitioner cleared all doubts regarding her antecedents.

10. Further, the respondents in the show cause notice dated 21.10.2021, relied on the referral report of ICICI Bank dated 11.08.2021 and on their own enquiry report and stated that the reports revealed that the petitioner was involved in serious financial irregularities. The petitioner in her reply on 25.10.2021, sought for a copy of the referral report, but the same was denied on the ground of confidentiality. The said report is now filed in this Court. When the respondents relied on the referral report for imputing serious misconduct of misappropriation on the petitioner, the respondents in all fairness ought to have issued a copy of the same to the petitioner. The failure to do so is certainly violative of the principles of natural justice. The termination of the petitioner's service by the impugned order on the basis of materials collected behind her back, in my view, grossly violates the principles of natural justice. In any event, in my view, to expect the petitioner to furnish information, which she was not aware of, and which was not sought for in the application, is stretching things too far. As rightly contended by the petitioner, when she was relieved by her previous employer ICICI Bank, there were no adverse

remarks and proceedings pending against her and hence the conditions of advertisement in Clause (vii) of the Important Note and 1(E), cannot be invoked against the petitioner. In my view there is no suppression of material fact, as all the informations sought in the online application were furnished and the alleged adverse remarks were not known to the petitioner when she submitted her application. Logically speaking, if the petitioner really knew the same, she would not have nominated her previous employer ICICI Bank, for referral. The very fact that the petitioner nominated her previous employee for referral, shows that the petitioner had no knowledge of her alleged involvement in the misconduct of misappropriation. Moreover, the petitioner in her reply to the show cause notice dated 21.10.2021, clearly stated that for the alleged misconduct of "financial irregularities", her previous employer neither gave her a notice nor conducted an enquiry and hence she was not in a position to disclose the same. The said statement is not denied by the respondent/Bank. In the light of the above discussions, I find that the contentions of the respondent/Bank that the petitioner's services were terminated for suppression of material information/false statements is untenable.

11. The learned counsel for the petitioner submitted that the impugned order is punitive in nature not only because it casts a stigma on the petitioner's character and antecedents, but also because it is based on the alleged misconduct of misappropriation of funds from customer's account. The learned counsel submitted that in the absence of an enquiry giving fair opportunity to the petitioner to establish her innocence, the impugned order cannot be sustained. The counsel further submitted that assuming the order was not punitive, even then, the same cannot be sustained as the mandatory notice or payment of one month salary in lieu of notice, as prescribed in Rule 16(3)(a) of Chapter (IV) of the State Bank of India officer's Service Rules, 1992 was not followed.

12. I find force in both the submissions of the counsel for the petitioner. The impugned order reads as follows;

> *"With reference to the captioned subject, please refer to our show cause notice HR:RC:2904 dated 21.10.2021 wherein, you have been advised to explain as to why your services from Bank shall not be terminated forthwith with reference to the adverse referee report and suppression of material information to the Bank.*
>
> *2. It may be noted that, in terms of the offer of appointment dated 12.03.2021, your confirmation in the Bank's service was subject*

to satisfactory reports on you from two referees nominated by you and acceptable to the Bank and satisfactory reports from Banks's own as well as from District / Police Authorities regarding your character and antecedents.

3. Whereas, the referee report received by us from your previous employer who is also one of the referees nominated by you, bears adverse remarks against you.

4. Whereas, on receiving the referee report Bank has also made an independent verification of the facts and the incidents mentioned in the report at Mission Street branch, ICICI Bank, Puducherry and RCU, ICICI Bank, Chennai, where it was confirmed that you were alleged to have been involved in certain misappropriation of funds from customer's account during your tenure at ICICI bank.

5.Therefore, it transpires from the above that, there are some adverse report against you regarding your character and antecedents which make you unsuitable for the post of CBO. You have not disclosed the details of the aforesaid issues and the inquiry conducted by your previous employer against you in the Biodata cum Attestation Form submitted to the Bank at the time of your interview on 14.02.2021.

6. It may be noted that, absolute devotion, integrity and honesty is a sine qua non for every bank employee which cannot be compromised by the Bank. It requires an employee to maintain good conduct and discipline while dealing with the money of the depositors and the customers of the Bank, else the very confidence of the public / depositors in Bank would be impaired.

7. Your alleged involvement in the aforesaid misappropriation of the customer's account and the adverse report submitted by your referee in this regard make you undesirable and unsuitable for the post a Circle Based Officer. Moreover, suppression of such material information and making false statements / declaration to the Bank in connection with your employment has a bearing on your character and antecedents in relation to your continuation in the service of the Bank.

8. Therefore, I have considered your reply dated 28.10.2021 and am not satisfied with the explanation provided by you for the show cause notice. Hence, it has been decided to terminate you from Bank's service with immediate effect.

9. You shall be relieved from the services of the Bank with immediate effect.

10. No further communication in this regard shall be entertained by Bank.

Please acknowledge receipt of this termination letter."

13. From a reading of the impugned order it is evident that serious imputations on the character and antecedents of the petitioner are made on the basis of the adverse referral report and the enquiry conducted by the respondent/Bank. The impugned termination order is founded on the misconduct of misappropriation of customer's account as stated in the referral report, and hence the same amounts to punishment. Therefore, a

detailed enquiry ought to have been conducted giving an opportunity to the petitioner to establish her innocence. The petitioner is 29 years of age and her career is just budding. The impugned termination order is stigmatic, attacking the character and antecedents of the petitioner. In my view, by the impugned order, the petitioner's entire future career is totally jeopardized and therefore, in the absence of a full fledged enquiry, the termination order is held to be invalid and illegal.

14. The learned counsel for the petitioner relied on several judgments. Instead of multiplying judgments, I would like to straight away refer to the judgment of the Hon'ble Supreme Court in the case of ***State Bank of India and Others Vs. Palak Modi and Another reported in 2013 (3) SCC 607,*** *which in my view squarely applies to the present case.* In the said judgment, the Hon'ble Supreme Court after discussing the earlier judgments in ***Anoop Jaiswal, Parshottam Lal Dingra and other, held as follows;***

*"**25.** The ratio of the above noted judgments is that a probationer has no right to hold the post and his service can be terminated at any time during or at the end of the period of probation on account of general unsuitability for the post held by him. If the competent authority holds an inquiry for judging the suitability of the probationer or for his further continuance in service or for confirmation and such inquiry is the basis for taking decision to terminate his service, then the action of the competent authority cannot be castigated as punitive. However, if the allegation of misconduct constitutes the foundation of the action taken, the ultimate decision taken by the competent authority can be nullified on the ground of violation of the rules of natural justice.*"

15. There is yet another reason for setting aside the impugned order. The impugned termination order is in violation of Rule 16(3)(1) of the State Bank of India Officers Service Rules 1992. Rule 16(3)(1) of the Rules is extracted hereunder.

"16.(3)....
(a) in the case of a direct appointee, his services may be terminated by one month's notice or payment of one month's emoluments in lieu thereof, and .."

17. Admittedly, the above rule was not complied before passing the impugned termination order and therefore, I find that the impugned order cannot be sustained. The judgments produced by the respondent's counsel

in my view, do not apply to the facts and circumstances of the case and hence the same are not discussed.

18. For all the above reasons, I find merit in the writ petition and hence the same is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

09-04-2025

Index: Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

1.State Bank of India Corporate Centre,
State Bank Bhavan,
Madame Cama Road,
Mumbai-400021.

2.State Bank of India,
Local Head Office,
"Circletop House", 5th Floor,
16, College Lane, Nungambakkam,
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<u>N. MALA, J</u>

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