



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.13371 of 2005 & 37479 of 2007

and

W.P.M.P.No.14665 of 2005

W.P.No.13371 of 2005

Flavian Miranda

... Petitioner(s)

Vs.

1. Indian Overseas Bank,
Rep. by its Managing Director,
763, Anna Salai, Chennai – 600 002.

2. The Appellate Authority and General Manager,
Indian Overseas Bank,
763, Anna Salai, Chennai – 600 002.

3. The Disciplinary Authority &
Deputy General Manager,
Indian Overseas Bank,
763, Anna Salai, Chennai – 600 002.

... Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the second respondent bearing No.DO:GM(KRN): AA:4071:2005 dated 18.01.2005 and the impugned original order of the third



respondent bearing No.DO:DGM(RR):DA:1049:2004 dated 23.06.2004 and quash the same directing the first respondent to restore two increments to the petitioner with all attendant benefits including treating him as on duty during the period of suspension.

W.P.No.37479 of 2007

Flavian Miranda

... Petitioner(s)

Vs.

1. Indian Overseas Bank,
Rep. by its Managing Director,
763, Anna Salai, Chennai – 600 002.

2. The Appellate Authority and General Manager,
Indian Overseas Bank,
763, Anna Salai, Chennai – 600 002.

3. The Disciplinary Authority &
Deputy General Manager,
Indian Overseas Bank,
763, Anna Salai, Chennai – 600 002.

... Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the original order of the third respondent bearing No.DGM:(RR):DA: 1049:2004 dated 23.06.2004 and the appellate order of the second respondent bearing No.DO:GM(KRN):AA:407/2005 dated 18.01.2005 insofar as they deal with the period of suspension and quash them consequently directing the respondent Bank to revise the petitioner's basic pay from 08.02.1991 reckoning the period of suspension together with



attendant benefits including payment of arrears.

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In Both Petitions

For Petitioner(s) : Mr.C.R.Chandrasekaran

For Respondent(s) : Mr.K.Srinivasamurthy
for M/s.N.G.R.Prasad

COMMON ORDER

The subject matter of both these writ petitions is one and the same, filed by the same petitioner and as such, they are taken up for consideration together and are being disposed of by this common order.

1.1. For better appreciation, it is necessary to state the brief facts that are relevant for disposal of this writ petition.

1.2. The petitioner was initially appointed as 'Clerk' on 01.04.1972 and thereafter promoted to the officer cadre on 26.06.1978 in 'Junior Management, Grade Scale-I'. He was further promoted to the 'Middle Management Grade-Scale-II' on 27.06.1989 with effect from 04.11.1987. In the said promotional cadre, while he was working as 'Manager' of Kayalpattinam Branch, he was subjected to disciplinary proceedings by



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issuing a charge sheet dated 08.02.1991, containing 23 charges. In response thereto, the petitioner submitted his explanation on 17.05.1991 and also submitted his further representation seeking revocation of his suspension. However, the petitioner was continued under suspension during pendency of the disciplinary proceedings against him.

1.3. After conclusion of the enquiry, the Enquiry Officer submitted his report holding some of the charges as 'proved', some of the charges as 'partly-proved', and some of the charges as 'not fully proved' and 'not proved'. On receipt of the report of the Enquiry Officer, the third respondent/ Disciplinary Authority furnished a copy of the same to the petitioner, while disagreeing with the findings of the Enquiry Officer in respect of some of the charges which were held to have been 'partly-proved' and 'not proved', without assigning any reason. In response thereto, the petitioner submitted his objections, but the Disciplinary Authority, without reference to the same, proceeded to pass a final order dated 14.06.1994, imposing the punishment of “reducing the basic pay of the petitioner by four stages with cumulative effect in MMGS-II as on the date of the said order” in terms of Regulation 4(e) of the Indian Overseas Bank Officer Employees' (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as 'the Regulations, 1976').



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1.4. It is aggrieved by the said order, the petitioner, on an earlier occasion, approached this court by filing W.P.No.15959 of 1995 and the said writ petition came to be allowed by a Co-ordinate Bench of this court vide order dated 18.07.2022, on the ground of violation of the principles of natural justice, and not affording an opportunity before disagreeing with the views of the Enquiry Authority, by following the decision of the Hon'ble Apex Court in the case of “*Punjab National Bank -vs- Kunj Behari Misra*” reported in **1998 (7) SCC 84**. It was thereafter, the third respondent afforded an opportunity to the petitioner to submit his objections through proceedings dated 23.12.2002, against his deviating views on the findings of the Enquiry Officer.

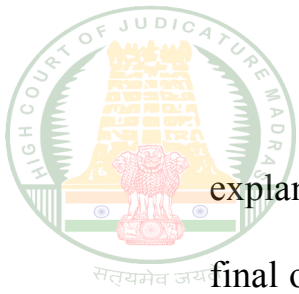
1.5. In response to the same, the petitioner submitted a representation dated 17.01.2003, asking for permission to peruse certain documents and also to furnish certain documents which were the subject matter of enquiry before the Enquiry Officer. In response thereto, the third respondent, through his letter dated 16.07.2003, permitted the petitioner to visit the Kayalpattinam Branch on any two working days before 31.07.2003 to peruse the documents



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as requested by the petitioner. Through letter dated 22.07.2003, some of the Defence Exhibits were also furnished to the petitioner. It was thereafter, the petitioner once again submitted a representation dated 26.07.2003, stating that the crucial documents were neither furnished, nor allowed to be perused. There was some correspondence in that regard. However, the petitioner, finally through his representation dated 16.10.2003, informed the third respondent that several Management Exhibits, whose numbers were specifically mentioned in the said representation were not furnished, besides certain other documents that are required by the petitioner.

1.6. In response thereto, the third respondent, through letter dated 21.01.2004, stated that the petitioner was afforded an opportunity to peruse all the documents during the enquiry proceedings and further stated that the petitioner had already perused once again 501 Management Exhibits out of 571 Management Exhibits and 76 Defence Exhibits out of 93 Defence Exhibits. Having said so, the third respondent required the petitioner to submit his further explanation. It was thereafter, the petitioner, through his representation dated 27.02.2004, once again pointing out that more than 70 documents have not been furnished to the petitioner, submitted his further



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explanation, charge-wise. It was thereafter, the third respondent passed a final order dated 23.06.2004, imposing the punishment of “reduction of basic pay by two stages in the time scale of pay for a period of one year with a further direction that the petitioner will not earn increment of pay during the period of such reduction and on expiry of such period, the reduction will have the effect of postponing his future increment of pay” in terms of regulation 4(f) of the Regulations, 1976. It was also made clear that the period of suspension shall not be treated as one spent on duty and the petitioner will not be entitled for any monetary or other benefits other than the subsistence allowance already paid to him.

1.7. It was thereafter, the petitioner filed an appeal before the second respondent, unsuccessfully and the said appeal was rejected by order dated 18.01.2005. It is aggrieved by the said order dated 23.06.2004 passed by the third respondent, as confirmed by the second respondent by order dated 18.01.2005, the petitioner filed W.P.No.13371 of 2005. Later, the petitioner filed yet another writ petition vide W.P.No.37479 of 2007 challenging the very same orders which were impugned in the first writ petition, however, seeking a consequential direction in respect to the period of suspension i.e.,



from 08.02.1991 to 21.07.1994.

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2. Heard Mr.C.R.Chandrasekaran, learned counsel for the petitioner and Mr.K.Srinivasamurthy for M/s.N.G.R.Prasad, learned counsel for the respondents and also perused the entire material on record.

3. As against the 23 charges that were levelled against the petitioner, the Charge Nos.4, 5, 8, 10, 11, 13, 15, 16 and 22 were held to have been 'not proved' against the petitioner. Whereas the Charge No.1 was held to have been 'proved', except Charge No.1(b). So also, the Charge No.2(a) and 2(b) were held to have been 'proved'. Charge No.3 was held to have been 'proved' except Charge No.3(b). Further, the Charge Nos.9, 17, 19, 20, 21 and 23 were held to have been 'proved', whereas the Charge Nos.6, 12, 14 and 18 were held to have been 'partly-proved'.

4. A perusal of the charges that were held to have been proved against the petitioner, would disclose that they are all in connection with the procedural irregularities alleged to have been committed by the petitioner and there is no ill-intention, or any fraud, or undue enrichment etc., was attributed



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to the petitioner. The charge memo is dated 08.02.1991 and most the allegations that are levelled against the petitioner are pertaining to the years 1984-1987. When the Disciplinary Authority initially passed the final order dated 14.06.1994, the same was interfered with by this court by an order dated 18.07.2002, and remanded the matter back to the Respondent No.3.

5. On remand, and taking into consideration the long lapse of time since the date of conclusion of the enquiry and passing of the final order initially, the petitioner has sought for certain documents by submitting a detailed representation dated 16.10.2003. In response to the same, the third respondent, through his letter dated 21.01.2004, admitted that out of 571 Management Exhibits, 501 were only furnished to the petitioner. Thus, it is evident that the Respondent No.3 failed to furnish 70 Management Exhibits to the petitioner. The relevant paragraph from the said letter dated 21.01.2004 reads as follows:-

“It is observed that you had already given opportunity to peruse all the documents during the enquiry proceedings and further that you had perused again 501 MEs out of 571 MEs and 76DEs out of 93 DEs. In the circumstances, I hereby advise you to submit your comments/ representation to the then Disciplinary Authority's (DGM-RKA) findings (communication to you vide letter dated 23.12.2002) within 2 weeks from the



date of receipt of this letter failing which the matter will be decided as deemed fit and proper.”

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6. In spite of the petitioner pointing out the same once again through his representation dated 27.02.2004, the Respondent No.3 proceeded to pass the final order by order dated 23.06.2004, imposing the punishment as noted above. Thus, from the above, it is evident that the alleged misconduct against the petitioner is pertaining to the years 1984-1987 and the final order in the disciplinary proceedings came to be passed on 23.06.2004 i.e., after a lapse of about 17 years.

7. As already noted above, most of the charges that were levelled against the petitioner are held to have been 'not proved' by the Enquiry Officer, and the same was also finally agreed by the Disciplinary Authority as well. Even in respect of certain other charges also, though the Enquiry Officer has concluded that the said charges are 'not proved' against the petitioner, the Disciplinary Authority deviated from the view of the Enquiry Officer and held the said charges as 'proved', and thereby, proceeded to impose the punishment in question through order dated 23.06.2004.



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8. As already noted above, the petitioner was admittedly not furnished with more than 70 documents, inspite of making a specific request for furnishing those documents. The Respondent No. 3 also failed to furnish any satisfactory reason for not furnishing the documents, as sought for by the petitioner, but proceeded to pass the impugned order. Further, it is also not even the case of the respondents that the said documents, as sought for by the petitioner, are no way relevant to the case on hand. In the light of the failure of the respondents in not furnishing the documents which were admittedly marked as Management Exhibits during the course of enquiry, and without assigning any reason for not furnishing those documents, is bound to be declared as arbitrary, illegal and violative of the principles of natural justice.

9. As already noted above, this court has already interfered with the punishment imposed on the petitioner on the ground of violation of principles of natural justice on an earlier occasion, however, has chosen to afford one more opportunity to the respondents to re-do the entire exercise by duly following the principles of natural justice. But the Respondent No.3 failed to make use of the opportunity afforded to him by this court and once again proceeded to pass orders imposing the impugned punishment on the



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petitioner in violation of the principles of natural justice once again. Though the petitioner has brought these facts and lacunas to the notice of the Respondent No.2/ Appellate Authority by filing an appeal, the Respondent No.2, instead of considering the same in a proper perspective, rejected the appeal filed by the petitioner in a mechanical manner. In the circumstances, this court is thoroughly convinced that the impugned punishment cannot be sustained for want of compliance with the principles of natural justice and accordingly, the impugned punishment bearing No.DO:DGM(RR):DA:1049:2004 dated 23.06.2004 is hereby quashed.

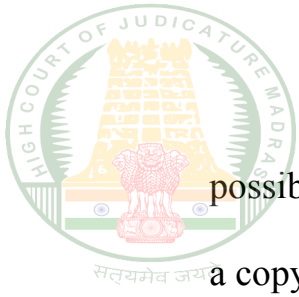
10. Keeping in view the considerable length of time since the date of issuance of charge memo and by now i.e., about more than 35 years, this court is not inclined to remit the matter back once again to the respondents and is of the considered view that the matter should be put to rest at this stage, especially in view of the fact that the petitioner has already attained the age of superannuation.

11. Then, coming to the period of suspension i.e., from 08.02.1991 to 21.07.1994, the learned counsel of the petitioner laid much stress and



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contended that the said period is to be treated as 'duty period', but this court is not inclined to accept the said contention for the simple reason that, admittedly, the disciplinary proceedings were initiated against the petitioner, and the same were continued for more than three years, and the petitioner has also chosen to examine 36 witnesses on his side during the said enquiry. It cannot be said that the respondent Bank alone is responsible for the delay in conclusion of the disciplinary proceedings. Once an employee is kept under suspension, pending disciplinary proceedings, the same cannot be interfered by this court, unless the same is shown to be without power or due to *malafide* exercise of such power. As this court has interfered with the punishment imposed on the petitioner not on merits, but on the grounds of violation of principles of national justice, and has also declined to remit the matter back to the respondents for doing the entire exercise, this court deem it appropriate to treat the said period of suspension as 'punishment' instead of treating the same as 'duty period with all monetary benefits'. Accordingly, the impugned punishment imposed through proceedings bearing No.DO:DGM (RR):DA:1049: 2004 dated 23.06.2004, is hereby quashed and the respondents are directed to pass appropriate consequential orders and release all monetary benefits that may be payable to him, as expeditiously as



possible, at any rate within a period of two months from the date of receipt of a copy of this order.

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12. Accordingly, both the writ petitions are disposed of. No costs.

Connected miscellaneous petitions, if any, shall stand closed.

28.07.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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MUMMINENI SUDHEER KUMAR, J.

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To

1. Indian Overseas Bank, Rep. by its Managing Director,
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