IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 07.02.2025	Pronounced on 02.06.2025

CORAM

THE HONOURABLE MR JUSTICE RMT. TEEKAA RAMAN

WP No. 24186 of 2011
and
M.P.No.1 of 2011

M.A.Balasubrmanian,
Chief Manager,
Chennai Service Branch,
Bank of India, 786, Sakthi Towers,
Anna Salai, Chennai-2. Petitioner(s)

Vs

1. The Chairman Cum Managing
Director, Bank of India, Head Office,
Bandra Kurla Complex,
Mumbai-400 051.

2.The Executive Director and Appellate Authority,
Bank of India,
Head Office, Bandra Kurla Complex,
Mumbai-400 051.

3.The General Manager (HRD),

Bank of India, Head Office,
Bandra Kurla Complex, Mumbai-400 051.

4.The General Manager and Disciplinary Authority,
National Banking Group (South),
Bank of India,
No.17, Errabalu Chetty Street, Chennai-1.

5.The Zonal Manager,
Controlling Authority,
Bank of India, Coimbatore Zone,
Star House, 324, Oppanakara Street,
Coimbatore-641 001.

6.The Senior Manager (HRD),
Bank of India, Coimbatore Zone,
Star House, 324, Oppanakara Street,
Coimbatore-641 001.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for all the relevant records relating to the impugned order of removal from service issued in Ref. NBG(S) IR 0-311: 768 dated 26.03.2011 passed by the 4th respondent herein and the consequential impugned appeal rejection order issued in Ref.No.NS:AA:036 dated 04.06.2011 passed by the second respondent herein and consequential impugned Review

Rejection order issued in Ref.No.VRI:RA:07 dated 05/04/2013 passed by the first respondent herein and quash the same as arbitrary, unreasonable, improper, illegal, against the established rules and regulations of the respondents, violating the principles of natural justice and the fundamental rights guaranteed under the Constitution of India and hereby directing the respondents to disburse all the monetary, terminal and other service benefits payable to the petitioner namely Pension, commutation of pension, leave salary, arrears, etc., without delay as per the time framed fixed by this Court.

(Prayer amended vide order dated 12/04/2019 made in MP.No.1/13 in WP.No.24186/11 by VPNJ)

For Petitioner(s): Mr.K.Venkatramani,
Senior Counsel
for Mr.A.R.Suresh

For Respondent(s): Mr.K.S.Sundar

ORDER

The amended prayer in the Writ Petition is to call for all the relevant records relating to the impugned order of removal from service dated 26.03.2011 passed by the fourth respondent and the consequential impugned appeal rejection order dated 04.06.2011 passed by the second respondent and consequential impugned Review Rejection order dated 05/04/2013 passed by the first respondent and quash the same and to direct the respondents to disburse all the monetary, terminal and other service benefits payable to the petitioner viz., pension, commutation of pension, leave salary, arrears, etc., without delay as per the time framed fixed by this Court.

2.The brief facts that are necessary for determination of this case is as under:

2(a).The petitioner was posted as Chief Manager at the Salem Branch of Bank of India, and she was working there from 29.04.2009 to 11.05.2010. During his tenure, certain alleged irregularities committed by him, were noticed by the Bank and hence to ascertain the facts, the Vigilance Department, Head Office, entrusted the investigation of custodial receipts issued by the petitioner to the Investigating Officer.

2(b).After receipt of communication from the Head Office, Vigilance Department, Coimbatore Zone advised Chennai Zone on 11.10.2010 to inform the petitioner to appear for examination to be carried out by the Senior Manager (Investigation).

2(c).The Zonal Manager, Coimbatore Zone & Controlling Authority, issued memo dated 13.11.2010, calling for his explanation for irregularities alleged to have been committed by him, during his tenure as Chief Manager at Salem Branch. The memo was acknowledged by the petitioner on 20.11.2010.

Since the petitioner did not submit his reply to the memo, he was reminded to submit his explanation vide memo dated 25.11.2010. Meanwhile, the petitioner submitted his application for VRS on the same date i.e., on 25.11.2010 with a request to accept his VRS and relieve him from the Bank's service w.e.f. 24.02.2011.

2(d).The petitioner was informed on 16.12.2010 that his application for VRS cannot be considered, since disciplinary action was contemplated against him. The said memo was acknowledged by him on 22.10.2010.

2(e).On 14.02.2011, another memo was issued by the Zonal Manager, Coimbatore Zone, to the petitioner calling for his explanation regarding alleged irregularities in sanctioning TODs exceeding his delegated authority.

2(f).Since the explanations submitted by the petitioner were not found satisfactory, the petitioner was issued Articles of Charge dated 01.03.2011 and the respondent Bank ordered the inquiry on 08.03.2011.

2(g).During the inquiry proceedings, the petitioner accepted the charges unequivocally and unconditionally on 16.03.2011. The Presenting Officer submitted certified copies of Management documents, the authenticity of which was admitted by the petitioner. The Inquiring Authority submitted his findings on 16.03.2011 holding all the charges leveled against the petitioner as proved. The petitioner submitted his representation on 18.3.2011 accepting the said findings of the Inquiring Authority.

3(a).It remains to be stated that the representation made by the petitioner during the enquiry that he unconditionally and unequivocally accepted the charges is produced in the typed set of papers by the respondent/Bank.

3(b).The Disciplinary Authority observed that the petitioner had accommodated the borrower in gross violation of Bank's norms. The petitioner had issued Safe Keeping Receipts of very large amount i.e., Rs.145.20 crores with false undertaking and without keeping any records for the same at the Branch. Considering the seriousness of allegation/charge proved against the petitioner, he was imposed major penalty of removal from Bank's service vide penalty order dated 26.03.2011.

4(a).Yet another issue is that during the pendency of enquiry, the petitioner was issued another Articles of Charge and related documents dated 21.03.2011 for irregularities alleged to have been committed by him during his tenure as Chief Manager at Bank's Salem Branch, (Coimbatore Zone), and thereafter, at K.K. Nagar Branch (Chennai Zone).

4(b).While acknowledging the said charge sheet, the petitioner has stated "I unconditionally and unequivocally admit all the charges". He also submitted his written statement of defence dated 21.03.2011. However, the petitioner was removed from Bank's service vide penalty order dated 26.03.2011 for acts of misconduct stated in Articles of Charge dated 01.03.2011, the disciplinary proceedings initiated against him vide chargesheet dated 21.03.2011 are kept in abeyance.

4(c).The estimated loss incurred by the Bank, according to the charges leveled against him in the charge sheet, is Rs.93,23,643/-. As a matter of fact, against Penalty Order dated 26.3.2011, the petitioner preferred an appeal dated 18.04.2011. The Appellate Authority vide Order dated 04.06.2011 confirmed the penalty imposed on the petitioner. The petitioner has preferred Review Petition, which ws placed before the Reviewing Authority for consideration/decision.

5.During the pendency of the Writ Petition, review authorities also rejected the case and hence, amendment application also filed and allowed as stated supra.

6.Learned senior counsel appearing for the petitioner would contend that due to the pressure exerted by the Management viz., Bank officials, the petitioner gave the letter admitting the charges unconditionally and hence, the order of removal from service is not warranted and seeks downgrading of the punishment.

7.Learned counsel for the respondent also brought to my notice about the earlier punishment imposed upon the petitioner. In the past, the petitioner was imposed major penalty of reduction of basic pay by 4 stages in the year 2000 and minor penalty of reduction of basic pay by one stage in the year 2003. He was issued 'administrative warning' on 25.9.2003 for attempting to change his date of birth in Bank's records and caution memo was issued to him on 25.11.2003, for issuing cheques without maintaining sufficient balance.

8.Heard the learned counsel for the parties on either sides, perused the typed set of papers consisting of charges framed against the petitioner.

9.After going through the charges and also the memo filed by the delinquent officer/writ petitioner, admitting the charges unequivocally, I find that in the enquiry report, Enquiry officer found that on 01.08.2009 i.e. within two days of opening the said current account, he had allowed two TODs violating guidelines of the banks. Even when two cheques issued from the said accounts were returned unpaid on 08.08.2009, yet another TOD was sanctioned on 10.08.2009. In order to close TODs on 31.03.2010 in gross violation of Bank's leading norms and procedures petitioner sanctioned and disbursed a clean demand loan in favour of M/s.Lucky Appliances and credited the entire proceeds of loan amount to the current account only to avoid reporting of same in closing returns. Subsequently, he sanctioned CC limits to the said account holder exceeding his sanctioning powers and used the disbursements to repay the TODs in current accounts.

10(a).Learned senior counsel stated that investigation was aimed only to frame the charges. The purpose of investigation is to find out the facts. Therefore, the contention that the proceedings for investigation by way of examination has been initiated without imposing any of the Memo of charges against the petitioner that too by a sub-ordinate authority to the petitioner in the capacity of Senior Manager is quite irrelevant and misleading.

10(b).The investigation was conducted by Senior Manager (Investigation) at the instance of Head Office Vigilance Department and hence, the said contention stands negatived.

11(a).From the enquiry report, this Court finds that Chapter -17 Vol.II of the Bank of India, Manual of Instructions under the caption "Safe Custody Business undertaken by the Bank" in para 1.1 it has been written that *"The Bank accepts from its customers for safe custody, securities (which expression includes Government promissory notes, Stock and Share certificates, Bonds, Debentures, Term Deposit Receipts of the Bank, Fixed Deposit/Loan Receipts of Public/Private Limited Companies or Partnership Firms, Insurance Policies* *and Documents of a like nature), and sealed packages and boxes".*

11(b).It is evident from para 1.1 that title deeds are not figuring in the list of securities for safe custody in Chapter-17 Vol.ll of the Bank of India Manual of Instructions under the caption "Safe Custody Business undertaken by the Bank". The SKR issued by the petitioner was an Asset Value Confirmation undertaking in respect of title documents of clean and clear immovable properties valued at Rs.145.20 crores (USD 30 million).

11(c).The document was not just a Safe Keeping Receipt but rather primarily intended to convey the value of the assets of the beneficiary, supposedly kept in safe custody with the branch which is not a practice allowed by the Bank. Hence, the certification that the value of the properties, of which title deeds were purportedly kept with the Branch, was Rs.145.20 Crores and that the same were un-encumbered and of commercial type, was a highly irregular act.

12.A memo calling upon explanation dated 13.11.2020 was based upon the facts revealed during investigation, which is the basis of the charges and hence, I find that the contentions raised by the learned senior counsel for the petitioner that he was targeted, cannot countenanced.

13(a).With regard to the second contention of the learned senior counsel for the petitioner that the act of the petitioner does not make any loss to the Bank, I find that on account of alleged irregularities on the part of the petitioner, he had allowed TODs in contravention to banks' norms and accounts to M/s.Narayanaswamy Building Creators P. Ltd. & M/s.MSL enterprises, in which gross irregularities were done by the petitioner at the time of sanction and explanation was called for vide memo Ref. No. CBE:IR:PR:642 dated 14.02.2011 and article of Charges Ref. No. NBG (S):IR:O-311:761 dated 21.03.2011 was issued and these accounts have become Non Performing Assets, which has caused financial loss to the bank.

13(b).He had also issued Safe Keeping Receipt giving false undertaking, without keeping any records, thereby exposing Bank to huge risk of Rs.145 Crore. The TODs were adjusted by sanctioning CC limit to the customer concerned by transferring funds to their current accounts. By no standard such acts can be viewed as having done things in normal course of banking.

13(c).The petitioner had grossly violated Bank's lending norms and procedure and exceeded delegated authority by way of sanctioning frequently large amounts of TODs in newly opened accounts and even this fact was not being reported to Controlling Office. For such irregularities which were reported against him that memo No. ZO:CBE:IR:642 dated 14.2.2011 was issued calling for his explanation.

13(d).Thus, this Court finds that the petitioner had in fact grossly violated banks' lending norms and procedures by sanctioning TODs of huge amount in the newly opened accounts and suppressed this fact from Controlling Office by submitting false monthly certificate to Zonal Office. The petitioner had also got opened a current account in the name of M/s Lucky Appliances at Salem Branch in violation of KYC norms/guidelines and had also unauthorisedly issued Safe Keeping Receipt (SKR) dated 09.09.2009.

14(a).In the enquiry, the petitioner has unconditionally admitted the charges leveled against him under charge sheet dated 01.03.2021 and hence, this Court finds that it is a lame excuse found for the purpose of this case as if the same was obtained forcibly and it is an after thought.

14(b).After initiation of the disciplinary proceedings, the petitioner's request for VRS was rejected and hence, from the enquiry report this Court finds that the petitioner had conducted himself in a reckless manner and in a manner unbecoming of an office employee and in that process the petitioner had exposed the respondent/bank like financial loss and reputation risk.

15.At this juncture, it is relevant to state that the Article 2 of the charge is very grievous in nature. It remains to be stated that Article 2, charge No.4 reads as under:

"iv. He had no authority for granting any "SKR - Assets Value

Confirmation" for any value. However, he for and on of the Bank confirmed and attested the SKR stating that he had received and was holding the relevant documents of clean and clear immovable commercial assets in our Bank's custody, including Valuation Report appraised and valued for INR 145,00,000,000/- (One Hundred Forty Five Crores and Twenty Lakhs) EQUAL TO US$ 30,000,000,000 [USD CURRENCY THIRTY MILLION]. Without obtaining non-encumbrance certificates, search reports etc.and also without inspecting the property and that too against the Bank's guidelines of not to issue Safe Custody Receipt in respect of immovable and/or along with its value etc. He thus in a reckless manner, exposed the Bank to a huge risk of Rs. 145 crores, despite the fact that he was not having any authority to do so.

v. He has falsely undertaken in the SKR that the information presented there in was verifiable and authenticated on a bank-to-bank basis via SWIFT.

vi. He falsely asserted that the issuance of the SKR is in consonance with the instructions in that regard given by the RBI and our bank, whereas, our Bank's scheme does not allow issuance of SKR in respect of title deeds of immovable properties.

vii. To conceal his misdeeds he did not report issuance of the above SKR and suppressed the facts from the Zonal Office "

Article III is to the effect that

"Shri. M.A. Balasubramanian grossly violated Bank's lending norms and procedure by sanctioning TOD's of huge amounts in the newly opened current accounts of 18 customers and suppressed the same from the Controlling Office by submitting false monthly certificate to Zonal Office. Further, in some of the

accounts several instances of cheque returns have been reported and the accounts were not running satisfactorily still he continued to sanction TOD's / TOL beyond your delegated authority. Subsequently, he exceeded his delegated authority and sanctioned CC limits to the said account holders and allowed them to utilize to repay/regularise the TOD's in the current accounts. In order to conceal these facts he falsely submitted NIL statement of TOD to the Zonal Office"

Both charges have been proved in the enquiry, necessary copies are also been furnished to him, principles of natural justice were followed during the enquiry.

16.Taking into the gravity of the charges and the principle of natural justice, including fair enquiry has been complied with by the Enquiry Officer and the petitioner has unconditionally and unequivocally accepted the charges, he cannot blow hot and cold on the same breath. The petitioner now took a second stand that it was obtained by force and hence, the order of the disciplinary authority in holding him with the charges are proved, is legally sustainable and I find no reason to interfere with the same.

17.On the point of quantum of punishment, learned senior counsel for the petitioner had pleaded that the order of punishment of removal from service is too harsh and may be downgraded to compulsory retirement, so that the petitioner can get some amount of pension. After going through the charges framed that has been held to be proved and admission of the petitioner, I find that the Bank was put to great financial loss and reputational loss and the petitioner had conducted himself in a reckless manner and he is unbecoming of an office employee and hence, this Court finds no good reason to interfere with the punishment. Accordingly, both the pleas raised by the learned senior counsel appearing for the petitioner stand negatived.

18.In fine, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.06.2025

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

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To

1.The Chairman Cum Managing Director,
Bank of India, Head Office,
Bandra Kurla Complex,
Mumbai-400 051.

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Bank of India,
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RMT.TEEKAA RAMAN J.

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Pre-delivery order made in WP No.24186 of 2011 and MP.No.1 of 2011

Dated: .2025