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W.P.No.2457 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2025

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.2457 of 2015

M.Swaminathan

... Petitioner

vs.

1. Corporation Bank
Rep. By its Chairman cum Managing Director
Head Office
Mangaladevi Temple Street
Mangalore – 575 001.
2. The Executive Director
(Disciplinary Authority)
Corporation Bank
Head Office
Mangaladevi Temple Street
Mangalore – 575 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the concerned records from the 1st respondent and 2nd respondent and to quash the order of the second respondent dated 09.11.2013 and the order of the 1st respondent dated 08.05.2014 and consequently, direct the respondents to restore the petitioner to SMG Scale IV, pay arrears of salary, difference in commuted value of pension, arrears of pension, and all other monetary benefits.

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For Petitioner : Mr.Balan Haridas
For Respondents : Mrs.J.Hemalatha

ORDER

The challenge in this writ petition is to the order dated 08.05.2014 passed by the first respondent, confirming the order dated 09.11.2013 passed by the second respondent. By the order dated 08.05.2014, the petitioner was imposed with the punishment of reduction to a lower grade, as envisaged under Regulation 4(g) of the Corporation Bank Officer Employees' (Discipline and Appeal) Regulations, 1982, on the finding that Charge Nos. 1 and 2 stood proved.

2. The petitioner, while serving as Senior Manager / Chief Manager, Chennai – Personal Banking Branch, was issued a charge memo dated 03.03.2012. The charge memo, along with the statement of allegations, reads as follows:

“Article of Charge No.1

That the Executive, in gross abuse of his official position, in utter



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violation of CHOME Scheme guidelines and in connivance with the builder viz., Shri.Kathiresan G., continuously sanctioned / disbursed a large number of CHOME loans to certain employees of the Corporation, by not conducting proper due diligence exercise about the builder and not ensuring proper appraisal/pre/post sanction verification of the loans and allowed the funds to be siphoned off by the builder in a large number of accounts; that consequently, as on 31.12.2011, 144 loan accounts which have been classified as Non-Performing Assets (NPAs) with aggregate balance outstanding Rs.509.86 Lakh (exclusive of uncharged interest and other charges) became difficult of recovery and that, thereby, the Executive exposed the Bank to huge financial risk and consequences, besides causing reputation loss to the Bank.

icle of Charge No.2

That the Executive, in abuse of his official position, by submitting misleading/incorrect/false information to the Sanctioning Authority at Head Office, obtained sanctions for deviation proposals from time to time, in respect of certain CHOME loans and thereafter granted a large number of CHOME loans to certain employees of the Corporation, in violation of the conditions stipulated under sanction orders for deviations and that a number of such loans turned to NPAs, with huge outstanding balance (as mentioned at charge No.1 above) and thereby, he failed to protect the interest of the Bank.



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WEB COPY Article of Charge No.3

That in abuse of his official position, the Executive connived with the common builder of CHOME loans granted to certain employees of the Corporation, in siphoning off of a large amount of the loan proceeds and as part of illegal gratification for extending undue accommodation to the builder, the Executive secured a job for his spouse in the company promoted by the builder and in that regard, while seeking post facto approval for permitting his spouse to take up employment in the company with which he has official dealings, willfully suppressed from the Competent Authority, certain material facts as to the Official dealings the Company had with the Bank and thereby, acted in a manner detrimental to the Bank's interest."

3. In response to the aforesaid memorandum of charges, the petitioner denied the allegations. Consequently, a departmental enquiry was initiated against him. The Enquiry Officer, after recording the statements of the management witnesses and the statement of the petitioner, and upon considering the documents placed on record, returned a finding that Charge Nos. 1 and 2 stood proved, while Charge No. 3 was not proved.



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4. Thereafter, the second respondent issued a second show cause notice, calling upon the petitioner to explain as to why the Enquiry Report should not be accepted and why appropriate punishment should not be imposed. The petitioner submitted his reply to the second show cause notice, furnishing a detailed explanation and specifically challenging the findings recorded by the Enquiry Officer, while reiterating his denial of the charges levelled against him.

5. The second respondent, after considering the Enquiry Report and the explanation submitted by the petitioner, passed the impugned order imposing the punishment. The said order was subsequently confirmed by the Appellate Authority, namely, the first respondent. Aggrieved by the same, the petitioner has filed the present writ petition before this Court.

6. Mr. Balan Haridas, learned counsel appearing for the petitioner, made the following submissions:

- (i) The petitioner, while functioning as Senior Manager / Chief Manager, verified the proposals forwarded by the bank officials and the said proposal was submitted , upon inspection of the project in



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question, and thereafter sanctioned and disbursed the loans after securing the requisite loan documents. Therefore, no dereliction of duty can be attributed to the petitioner, as alleged by the respondent Bank.

(ii) The loans sanctioned by the petitioner during the years 2004 and 2005 subsequently became irregular due to default on the part of the borrowers. Upon verification of the relevant documents, the Bank itself restructured the loan accounts. In such circumstances, initiating disciplinary proceedings against the petitioner in isolation is arbitrary, discriminatory, and unsustainable.

(iii) The borrowers defaulted in repayment of the loans in the year 2006. However, the investigation was conducted only in 2011, and the disciplinary enquiry was initiated in 2012. Several vital documents relied upon during the investigation were not furnished to the petitioner, thereby depriving him of a reasonable opportunity to defend himself effectively. Hence, the enquiry is vitiated for violation of the principles of natural justice.



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7. In support of the above submissions, the learned counsel for the petitioner placed reliance on the following decisions:

(i) Kashinath Dikshita v. Union of India and Others, (1986) 3 SCC 229;

(ii) State of Uttar Pradesh and Others v. Saroj Kumar Sinha, (2010) 2 SCC 772; and

(iii) P.V. Mahadevan v. Managing Director, Tamil Nadu Housing Board, (2005) 4 SCC 100.

8. Per contra, Mrs. J. Hemalatha, learned counsel appearing for the respondents, made the following submissions:

(i) The petitioner, in his capacity as Branch Manager, was responsible for verifying the genuineness of the loan documents and for conducting due diligence before sanctioning and disbursing the loans. However, the petitioner failed to exercise due diligence and sanctioned and disbursed the loans without properly verifying the loan documents, thereby causing monetary loss to the Bank.



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(ii) The loan accounts were classified as fraudulent in the year 2011, pursuant to which an investigation was conducted. The disciplinary enquiry was initiated in 2012. Therefore, there was no delay on the part of the respondent Bank in initiating disciplinary proceedings, and the petitioner's contention that the delay vitiates the enquiry is devoid of merit.

(iii) The petitioner was furnished with all relevant documents and was also permitted to inspect the original loan documents connected with the subject matter of the enquiry. Hence, the contention that the relevant documents were not furnished is factually incorrect and unsustainable.

9. I have carefully considered the submissions of the learned counsel appearing on either side and perused the materials placed on record.

10. Admittedly, 170 home loans were sanctioned to employees of the Tamil Nadu State Transport Corporation (TNSTC) by the petitioner, out of which 103 accounts were classified as Non-Performing Assets (NPAs), aggregating to a sum of Rs. 282 lakhs. The sanction and disbursement of these loans took place during the period from 2003 to 2005.



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11. On 28.09.2010, the respondent Bank received five complaints from TNSTC employees, who were borrowers, alleging that they had been cheated by a middleman, G. Kathiresan (builder), in collusion with the Bank Manager, namely, the petitioner. According to the complainants, the said Kathiresan had promised to arrange housing loans through Corporation Bank, construct and hand over completed houses, and had obtained their signatures on several blank and unfilled forms. It was further alleged that the middleman, who was an employee of the Corporation, assured the borrowers that he would take care of all formalities required for obtaining the loan amounts from the Bank.

12. The complainants further stated that Kathiresan had not carried out any construction beyond the basement level and, in some cases, had left the walls unplastered. It was also alleged that the fraud had been brought to the notice of the Bank as early as in 2005, and that the employees had requested the Bank not to initiate proceedings under the SARFAESI Act.

13. Based on the aforesaid complaints, an investigation was initiated on 13.12.2010. A report was submitted on 08.10.2011, and a note was placed before the Chairman and Managing Director and the Executive

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Director on 03.02.2011, following which directions were issued to conduct a detailed investigation in respect of all home loans sanctioned to TNSTC employees. Pursuant thereto, the Investigating Officer conducted a detailed enquiry and submitted his report on 14.06.2011.

14. Based on the said investigation report, a charge memo was issued to the petitioner. The explanation submitted by the petitioner was found to be unsatisfactory, and consequently, a disciplinary enquiry was initiated. During the enquiry proceedings, the Investigating Officer was examined as Management Witness No.1 (MW1).

15. In the course of cross-examination, MW1 admitted the following facts:

- (i) He did not contact the builder, G. Kathiresan, during the course of the investigation;
- (ii) In response to a query posed by the petitioner regarding the conditions required to be fulfilled for rescheduling a loan account, MW1 stated that the conditions were set out in the relevant circular, marked as Ex.D18, which prescribes the procedure for rescheduling



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loans;

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(iii) When it was pointed out to MW1 that the said circular stipulates that no account shall be taken up for restructuring unless financial viability is established and there is reasonable certainty of repayment by the borrower, and that accounts involving fraud or malfeasance are ineligible for restructuring, MW1 admitted the existence of such instructions;

(iv) In further cross-examination, when it was suggested to MW1 as to whether the petitioner had issued any written communication calling upon Kathiresan to appear before the Branch, MW1 admitted that no such communication had been sent.

16. MW14, who was working as Assistant Manager, Chennai Ashok Nagar Branch, admitted during his cross-examination that Mr. Kalyanasundaram, who was then serving as Assistant General Manager and Zonal Officer, Chennai, had introduced the builder Kathiresan to the Branch. He further admitted that the loan amounts were released by him in the absence of the petitioner.



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17. Mr. J. Govindarajan, who was working as Assistant General Manager, Zonal Office, Delhi, was examined as MW19. When it was suggested to him that the rephasing of loan accounts had been carried out during his tenure as Branch Head, he stated that he could confirm the same only after perusing the relevant records. He further admitted that, in cases of rephasing, a written request from the borrower is required and that rephasing can be effected only after verifying that all loan documents have been properly executed.

18. When questioned as to whether such rephasing was done by him independently or with the approval of higher authorities, MW19 stated that he did not exactly remember. In response to a suggestion regarding the preconditions required to be fulfilled before rephasing a loan account, he stated that he could not recall the exact conditions, as they vary from case to case. However, he admitted that he was aware of the circular instructions issued by the Corporate Office prescribing the minimum requirements for rephasing of loans and referred to the contents of the said circular.



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19. MW20, one of the complainants, who was working as Senior Manager, Zonal Office, Chennai, categorically admitted during cross-examination that the complaints were lodged by the borrowers only after the Bank initiated proceedings under the SARFAESI Act for recovery of the loan amounts.

20. In his defence statement, the petitioner stated that during his tenure, a sum of Rs.236 lakhs alone had been disbursed, out of which Rs.80 lakhs had been disbursed during his absence, and that a further sum of Rs.48.71 lakhs had already been recovered . He asserted that all the loans were genuinely sanctioned for the purchase of land and construction of houses during the years 2004 and 2005.

21. In the written brief submitted by the Senior Manager, Personnel Administration Division, dated 03.03.2012, it was stated that the defence had produced several documents in support of its case, which were marked as Exs. D1 to D73. It was further stated that efforts were made to procure all the documents sought by the defence. However, the respective custodians, namely Chennai-PBB, Zonal Office-Chennai, Zonal Office-Delhi, and others, had communicated in writing their inability to trace certain records.

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Consequently, those records could not be furnished to the defence.

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22. The documents sought by the petitioner, which could not be located, are detailed in paragraph 6 of his affidavit and are reproduced as follows:

(i) Consent agreement between the builder and the borrower dated 05.04.2009, and receipt dated 07.04.2009, in respect of CHOME 50238;

(ii) Letter of the Zonal Office, Chennai, bearing reference ZO/CHEN/LEGAL/OR/26/OPINION/11/2014, dated 28.04.2004;

(iii) Due diligence report and site visit report relating to CHOME 40069 in the name of Nagalakshmi and G. Kathiresan;

(iv) Slips, chits, or instructions reportedly prepared for each release of loan amounts;

(v) TA Bill dated 16.05.2005, including travel details for the period from 27.04.2005 from Chennai to Jaipur, along with the relieving order;

(vi) Vigilance Department Note bearing reference VIG/COMP/22/10-11/ON/121/2010-11, dated 03.02.2011, addressed to the Chairman and Managing Director;

(vii) Copy of the communication received from RLS Head Office permitting conduct of Loan Melas on Sundays, along with copies of relevant pages of the register maintained by the Branch containing details of “in-principle sanctions” made during Loan Melas held in 2004 and 2005, including details of interest concessions offered;

(viii) Relevant pages of the register detailing the pre-sanction and



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post-sanction site visits made by officials during the years 2003 to 2005; and

WEB COPY (ix) Site visit report dated 08.01.2005, conducted along with the Auditor Mr. Irudayaraj Manohar, recorded in the form of a compact disc (CD).

23. One of the missing documents pertains to the due diligence report and site visit report relating to the loan accounts in the names of Nagalakshmi and G. Kathiresan. The crux of the allegation against the petitioner is that he sanctioned the loans without conducting field inspections and disbursed the loan amounts without verifying whether construction had actually commenced. The due diligence and site visit reports prepared by the Bank officials would have clearly revealed whether the builder had commenced construction at the relevant project sites at the material point of time. Another vital document is the site visit report dated 08.01.2005, prepared along with the Auditor, which was recorded in the form of a compact disc (CD).

24. The respondent Bank has not denied the existence of these documents but has admitted its inability to trace and produce them from the Branch records.



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25. The Hon'ble Supreme Court, in *Kashinath Dikshita v. Union of India* (supra), held that it is unjust and unfair to deny a government servant copies of statements of witnesses examined during investigation and relied upon during the enquiry in support of the charges. The Apex Court further held that furnishing a mere synopsis does not satisfy the requirement of affording a reasonable opportunity to the delinquent to show cause against the proposed action.

26. Similarly, in the *State of Uttar Pradesh v. Saroj Kumar Sinha* (supra), the Supreme Court reiterated that a government employee facing a departmental enquiry is entitled to all relevant statements, documents, and materials to enable him to effectively defend himself against the charges. This proposition of law is well settled and does not require further reiteration. In the present case, the denial of vital documents has deprived the petitioner of a reasonable opportunity to defend himself, and consequently, the non-furnishing of such documents vitiates the enquiry.



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27. The witnesses examined on behalf of the respondent Bank admitted that the loan accounts sanctioned by the petitioner, upon default by the borrowers, were subsequently restructured and rephased after verifying all credentials of the borrowers, including the loan documents. Once the loans were scrutinised and rephased by the Bank after due verification, the allegation that the petitioner failed to conduct due diligence at the time of sanction loses much of its significance. It was also admitted that certain loan amounts were disbursed during the absence of the petitioner.

28. MW14, during his cross-examination, admitted that Mr. Kalyanasundaram, who was then serving as Assistant General Manager and Zonal Officer, Chennai, had introduced the builder Kathiresan to the Branch. However, despite allegations regarding his role, the said Kalyanasundaram was neither examined as a witness in the enquiry nor subjected to any disciplinary proceedings.

29. The Hon'ble Supreme Court, in *Man Singh v. State of Haryana and Others*, (2008) Supreme (SC) 747, reiterated the settled position of law that any act of a repository of power, whether legislative, administrative, or quasi-judicial is open to challenge if it is so arbitrary or unreasonable that no



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fair-minded authority could have taken such a decision. The concept of equality enshrined in Article 14 of the Constitution of India extends to the entire realm of State action, including the imposition of liabilities. Equals must be treated equally not only in the exercise of rights but also in matters of executive or administrative action.

30. The petitioner has relied upon the aforesaid principle to contend that Mr. Kalyanasundaram, Assistant General Manager, who was involved in the loan disbursement process, including disbursement of loans in the petitioner's absence, was similarly placed. However, in the present case, no departmental enquiry was initiated against the said Kalyanasundaram or against other officials who were involved in the verification of the loan applications and who had conducted spot inspections, thereby rendering the action against the petitioner discriminatory and violative of Article 14 of the Constitution.

31. A comprehensive review of the entire evidence on record clearly reveals that the departmental enquiry was initiated solely against the petitioner, while other officials who were equally involved in the verification of loan applications and the conduct of spot inspections were

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left out without any justification. Ordinarily, this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, does not interfere with the findings of the Enquiry Officer unless such findings are shown to be perverse, arbitrary, or based on no evidence.

32. In the present case, despite categorical admissions made by the management witnesses regarding the rephrasing and restructuring of the loan accounts after due verification of documents, and despite the admitted non-supply of vital and relevant documents to the petitioner, the Enquiry Officer nevertheless concluded that Charge Nos. 1 and 2 stood proved. Further, all the loans sanctioned and disbursed by the petitioner were admittedly secured, and the complaints by the five borrowers were lodged only after proceedings were initiated under the SARFAESI Act for recovery of the loan amounts by attachment of the secured assets. Notably, these complaints formed the sole basis for initiating departmental proceedings against the petitioner after a delay of six years. Such findings, having been recorded in disregard of material evidence and binding admissions, are arbitrary and perverse, and therefore warrant interference by this Hon'ble Court.



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33. In the light of the foregoing discussion and the narrative set out hereinabove, this Court is of the considered view that Charge Nos. 1 and 2 leveled against the petitioner have not been proved. Consequently, the order of punishment imposed on the petitioner is arbitrary, discriminatory, and violative of the principles of natural justice, and is therefore liable to be quashed.

34. Accordingly, the captioned Writ Petition is allowed. The order dated 08.05.2014 passed by the first respondent, confirming the order dated 09.11.2013 passed by the second respondent, is hereby set aside. The respondent Bank is directed to release all monetary benefits accruing to the petitioner as a consequence of this order. The said exercise shall be completed by the respondents within a period of three months from the date of receipt of a copy of this order. No costs.

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HEMANT CHANDANGOUDAR, J.,

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