



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.09.2025

PRONOUNCED ON : 26.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.4759 of 2019

and WMP.Nos.5397 and 5398 of 2019

and 34603 of 2024

S.K.Mohana Krishna

1.Mrs.Akkammal
2.Krishnaprasath
3.Mahalakshmi
4.Srihari
(impleaded vide WMP.No.34603 of 2024
dated 26.09.2025)

.. Petitioners

vs

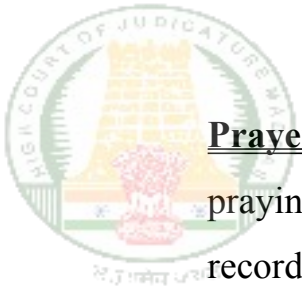
1.The General Manager (HRD)
Bank Of India
Star House, Bank of India – Head Office
Bandra – Kurla Complex, Mumbai – 400 051.

2.The Zonal Manager
Bank Of India – Chennai Zonal Office
Old No.17, New No.30, Errabalu Street,
Chennai – 600 001.

3.The Assistant General Manager & Disciplinary Authority
Bank of India - Chennai Zonal Office
Old No.17, New No.30, Errabalu Street,
Chennai – 600 001.

4.The Branch Manager
Bank Of India – Santhome Branch
Chennai – 600 004.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the relevant records relating to the impugned order issued in Letter No.Zo:DA:O-244:391 dated 24.12.2009 passed by the 3rd respondent herein and quash the same as arbitrary, unreasonable, improper, illegal against the rules and regulations of the respondents, violating the principles of natural justice and fundamental rights guaranteed under the Constitution of India and thereby directing the respondents 1 to 3 to grant continuity of service by paying all other pensionary and other terminal benefits including other consequential monetary and other service benefits namely, pension, commutation of pension, earned leave salary with interest at the rate of 10%p.a. thereon to the petitioner which are all entitled to the petitioner as per law, within the time frame fixed by this Court.

For Petitioner : Mr.M.A.Balasubramanian
For Respondents : Mr.J.Saravanel

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the record.

2. The petitioner by the present writ petition had called in question proceedings dated 24.12.2009 termed as 'penalty order', whereby the petitioner has been visited with major punishment of removal from the respondent/Bank service with immediate effect.



3. It is the case of the petitioner that he worked with the respondent/bank for 36 years and 11 months without any remark/ blemish and just 7 days before his date of retirement, he has been visited with the penalty order imposing major punishment of removal from service; that enquiry officer appointed to enquire into alleged violations/charges submitted his report stating charges not proved; that the disciplinary authority not agreeing with the aforesaid enquiry report, had ordered for 2nd enquiry; that the 2nd Enquiry Officer had submitted his report claiming all the articles of charges levied against the petitioner having proved; and that the respondents on the basis of 2nd Enquiry Report had issued impugned order removing the petitioner from service of the respondent which action, it is contended as highly illegal, arbitrary, unreasonable and improper, against the rules and regulations of the respondents.

4. Counter affidavit on behalf of the respondent is filed.

5. The respondents by the counter affidavit contended that the present writ petition as filed by the petitioner, suffers on account of delay and laches as having been filed, after a period of 9 years; that if the petitioner was aggrieved by the order imposing major punishment of removal from



service ought to have availed the remedy of appeal, within 45 days from the date of service of the aforesaid order dated 24.12.2009; and that the petitioner having kept quite for nearly a decade chose to file the present writ petition suppressing various material facts.

6. On behalf of the respondent in so far as claim for pensionary benefits are concerned, it is contended that the petitioner had joined the respondent/bank service in the year 1973 and thereafter pension scheme was introduced; that the notified date for the employees who are in service was fixed as 25.09.1995; that the petitioner did not opt for being covered by the pension scheme of the respondent/bank, as such the petitioner is not entitled for being granted with any pension.

7. On behalf of the respondents, it is further contended that the petitioner not only did not challenge the order of his removal from service immediately, but also received the benefit viz., gratuity, provident fund without any demur on 25.01.2010 and only after a lapse of 9 months thereafter, chose to make a claim for payment of pension for the first time by submitting representation dated 29.10.2010 and thereafter did not chose



to pursue his claim, as such the writ petition is liable to be dismissed on account of delay and laches.

WEB COPY

8. On behalf of the respondents it is also contended that since, the petitioner ceased to be an employee of the respondent, pursuant to penalty order dated 24.12.2009, the relationship of the employer and the employee does not exist, as such the present writ petition is not maintainable.

9. On behalf of the respondent it is further contended that the claim of the petitioner of he having been visited with major penalty of removal from service just 7 days before attaining the age of superannuation is factually incorrect, as the petitioner was issued with charge memo on 27.03.2007, to which the petitioner having submitted explanation and also taking part in the enquiry proceedings, it is not open for the petitioner to claim that he being visited with the major penalty just before the date of superannuation; and that the action of the respondents in imposing major penalty is arbitrary and illegal is only made to cause prejudice against the respondents.

10. I have taken note of the respective contentions urged.



11. At the outset it is to be noted that the present writ petition is filed on 14.02.2019 to declare the proceedings dated 24.12.2009 termed as 'penalty order' is being illegal and arbitrary. However, a reading of the writ affidavit, there is no mention or reason is indicated as to why the petitioner could not approach this Court at an earlier point of time if he is aggrieved by the aforesaid order and also the reason for remaining silent all through this period.

12. Not only the petitioner did not assail the action of the respondents for visiting him with major punishment of removal from service, but also did not chose to avail the remedy of appeal provided under the respondents employment rules / regulations.

13. Though, on behalf of the petitioner it is contended that he being visited with the major punishment at the fag end of his service, it is to be noted that the impugned order came to be passed pursuant to the disciplinary action initiated against the petitioner while he was in service by issuing articles of charges under charge memo dated 27.03.2007. Thus, it is not open for the petitioner to contend that it is only at the fag end of service he has been visited with the impugned order imposing major penalty of



removal from service, since, he was already put on notice by initiating disciplinary action in the month of March 2007.

WEB COPY

14. Further, the petitioner having received the impugned order imposing major penalty of removal from service on 24.12.2009 and having remained silent without availing the remedy of appeal or assailing the same by way of writ petition immediately thereafter, disentitles him from calling in question the said order now after a lapse of nine years i.e., in the year 2019.

15. In support of the aforesaid contention, reliance is placed on the decision of the Hon'ble Apex Court in the case of **U.P.Jal Nigam and another V. Jaswant singh and another** reported in **2006 (11) SCC 464**

“6. The question of delay and laches has been examined by this Court in a series of decisions and laches and delay has been considered to be an important factor in exercise of the discretionary relief under Article 226 of the Constitution. When a person who is not vigilant of his rights and acquiesces with the situation, can his writ petition be heard after a couple of years on the ground that same relief



should be granted to him as was granted to person similarly situated who was vigilant about his rights and challenged his retirement which was said to be made on attaining the age of 58 years. A chart has been supplied to us in which it has been pointed out that about 9 writ petitions were filed by the employees of the Nigam before their retirement wherein their retirement was somewhere between 30-6-2005 and 31-7-2005. Two writ petitions were filed wherein no relief of interim order was passed. They were granted interim order. Thereafter a spate of writ petitions followed in which employees who retired in the years 2001, 2002, 2003, 2004 and 2005, woke up to file writ petitions in 2005 and 2006 much after their retirement. Whether such persons should be granted the same relief or not?"

16. Further it is also to be noted that the petitioner chose to file the present writ petition assailing the order imposing major penalty of removal from service only when the respondents denied his claim for being granted pension.



17. Insofar as the claim for pension is concerned, since, the petitioner had joined the service of the respondent/bank in the year 1973, the petitioner ought to have subscribed to the said scheme, which is termed as Bank of India employees pension Rules 1995 on or before the notified date as defined under regulations (2)(r) of the regulations.

18. The fact of the petitioner being an employee of the respondent/Bank on the date when the regulation have been gazetted and having opted not to subscribe to the provident fund would disentitle him from claiming of the said regulations as being applicable to him and being eligible to receive the pension. Further, it is also to be noted that the petitioner having not subscribed to the pension under the regulations, at the relevant point of time, cannot seek to exercise the option to subscribe, after he being visited with the impugned order by which his services were terminated, resulting in severance of relationship of the employer and the employee.

19. Further, the fact of the petitioner filing the present writ petition after nearly a decade after being served with the penalty order imposing a



major penalty removing him from service only goes to show that it is a chance litigation resorted to by the petitioner which is not permitted in law.

WEB COPY

20. It is trite law that in service matters, belated service related claim need to be rejected on the ground of delay as held by the Apex Court in the case of ***Shiv Dass and others v. Union of India and others*** reported in **(2007) 9 SCC 274** it is held in Paragraph No.10 of the judgment as follows:-

“ 10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit the appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

21. In the facts of the present case as noted herein above, the petitioner having remained silent for more than 9 years, after being served with the impugned order removing him from service, cannot seek to lay



challenge to the said proceedings, by the present writ petition filed in the year 2019 much less claim, the said order to be arbitrary, illegal for it to be set aside, and also declaring he being eligible for pension under the respondent /bank regulations of the year 1995.

22. The fact that the petitioner did not seek to assail the order passed by the respondents removing him from service would have to be considered, as such the petitioner having abandoned his claim and for the said reason, cannot be allowed to give life to an abandoned and stale claim after lapse of long period of time.

23. Thus, this Court is of the view that the present writ petition filed as filed is devoid of merits and is accordingly dismissed. No order as to costs. Consequently, connected miscellaneous petitions in WMP.Nos.5398 and 5397 of 2019 stands closed and WMP.No.34603 of 2024 is ordered as prayed for.

26.09.2025

tsh



Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

WEB COPY

Note : Registry is directed to carry out suitable amendment in the main writ petition and to issue order copy thereafter.

To

1.The General Manager (HRD)

Bank Of India

Star House, Bank of India – Head Office

Bandra – Kurla Complex, Mumbai – 400 051.

2.The Zonal Manager

Bank Of India – Chennai Zonal Office

Old No.17, New No.30, Errabalu Street,

Chennai – 600 001.

3.The Assistant General Manager & Disciplinary Authority

Bank of India - Chennai Zonal Office

Old No.17, New No.30, Errabalu Street,

Chennai – 600 001.

4.The Branch Manager

Bank Of India – Santhome Branch

Chennai – 600 004.



WEB COPY

W.P.No.4759 of 2019



T. VINOD KUMAR, J.

tsh

Order in

W.P.No.4759 of 2019

26.09.2025.