IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 21.07.2025**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.2860 of 2012**

R.Sundaravadivelu ... Petitioner

Vs.

1.The Executive Directory/
Reviewing Authority
Indian Bank, Corporate Office,
P.B.No.5555, Chennai-14.

2.The General Manager/
Appellate Authority
Indian Bank Head Office
P.B.No.1384,
No.66, Rajaji Salai, Chennai-1.

3.The Dy General Manager/
Disciplinary Authority
Zonal Office, Chennai South,
55 Ethiraj Salai, Chennai – 8. ... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the 3rd respondent's order made in ZO:CS:1187:2010-11 dated 24.02.2011, confirmed by the 2nd respondent's order made in FC.2037:VGCHS:2011-12/1777 dated 25.7.2011 and the 1st respondent's order reference FC.2037/VGCH:2011-12:3511 dated 3.12.2011, to quash the same and consequently direct the respondents to reinstate the petitioner with all attendant benefits both service and monetary.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Ms.Rita Chandrasekar for M/s.Aiyar & Dolia.

**ORDER**

While the petitioner was working as Assistant Manager, Indian Bank, MRC Nagar, he was subjected to disciplinary proceedings by issuing a charge memo dated 13.07.2010 by duly placing him under suspension. In all, ten charges were levelled against the petitioner. In response to the charge memo, the petitioner submitted his explanation on 04.08.2010, denying the charges levelled against him. It was thereafter, an enquiry was conducted into the said charges levelled against the petitioner. After conducting an enquiry, the enquiry officer submitted his report holding the charge Nos. 1, 1a, 1b, 1c, 5, 8 & 9 as proved, while holding the charge Nos. 3 & 10 as partly proved. The rest of the charges namely, charge Nos. 1d, 2, 4, 6, 7 & 11 were held as not proved. It was thereafter, the disciplinary authority i.e., 3rd respondent herein through proceedings dated 27.12.2010 furnished the disagreement statement on charge Nos. 2, 3, 4, 6 & 7 along with report of the enquiry officer. In response thereto, the petitioner submitted his explanation through representation dated 10.01.2011. On considering the said representation, the disciplinary authority, through proceedings dated 24.02.2011, imposed the punishment of compulsory retirement from service. Aggrieved thereby, the petitioner filed an appeal dated 27.04.2011 before the 2nd respondent. The 2nd respondent, through proceedings dated 20.07.2011, confirmed the penalty by rejecting the appeal filed by the petitioner. Aggrieved thereby, the petitioner filed a further review dated 14.10.2011. However, the said review was also came to be rejected by confirming the order passed by the original authority as well as the appellate authority by passing an order dated 03.12.2011. It is aggrieved by the said orders dated 24.02.2011, as confirmed by the orders dated 25.07.2011 & 03.12.2011, the petitioner approached this Court by filing the present writ petition.

2. The learned counsel appearing for the petitioner mainly contended that, considering the gravity of the charges levelled against the petitioner, the imposition of punishment of compulsory retirement from service is shockingly disproportionate and not commensurate with the alleged misconduct of the petitioner. He further submitted that the petitioner, having been promoted to the post of Assistant manager that is, Managerial cadre, has totally acted as per the instructions of the Branch Manager concerned, by

name Mr.Sridhar, believing that he was acting as per the Rules and Regulations. He also further submitted that the petitioner, having completed 26 years of unblemished service by the date of initiation of disciplinary proceedings in question, is entitled to be afforded an opportunity to continue in service instead of imposing capital punishment of compulsory retirement from service. He also drew the attention of this Court to the charges that are levelled against the petitioner, to say that the charges are not of a serious nature, either involving misappropriation of funds or committing fraud, etc. He also further submitted that there is no loss caused to the respondent Bank because of the alleged omissions and commissions on the part of the petitioner. Therefore, the learned counsel prayed for modifying the punishment by reducing the severity of the same.

3. On the other hand, Ms.Rita Chandrasekar, learned counsel appearing for the respondents strenuously contended that the charges that are levelled against the petitioner are very serious in nature which involves crediting the amounts received in respect of a particular account into the credit of another unconnected account, thereby doing undue favour to some of the account holders at the cost of other account holders, thereby bringing down the reputation of the Bank in the eyes of the general public, and thereby

deterring the confidence of the people in the respondent Bank, which prejudicially affecting the interest of the Bank. She also drawn the attention of this Court to the orders passed by the appellate and reviewing authorities, wherein certain observations were made on the acts committed by the petitioner.

4. This Court has carefully considered the submissions made on either side and also perused the entire material available on record.

5. The charges that are held to have been proved by the enquiry officer against the petitioner are 1, 1a, 1b, 1c, 5, 8 & 9. The said charges reads as under:

> *"1.On 12.04.2009, you had extended a cheque BP Facility of Rs.12.96 lakhs to M/s All India Christian Liberation From (current a/c no.829884272). The said cheque was returned unpaid. In this connection,*
> *a) You do no have powers to purchase Cheque BP for Rs.12.96 lakh*
> *b) You had not obtained prior permission from higher authorities at Circle Office.*
> *c) Neither you have reported nor mentioned in the control returns the purchase of cheques to Controlling Office.*
>
> *5.On 06.11.2009, an amount of Rs.20 lakhs was fraudulently debited to the home loan account of Mr TR Gopalakrishnan and the amount so debited was routed*

*through Intermediary Parking Account and ultimately credited to the account of Madras Community College, with which Mr TR Gopalakrishnan was not related in any manner whatsoever. The funds so transferred were used to issue high value DDs from the account of Madras Community College. You have authorized fraudulent transfer of funds from IBHL account to Intermediary Parking account.*

*8.On 06.11.2009, you then Branch Manager allowed an amount of Rs.90.00 lakhs to be drawn against clearing (Two cheques of Rs.40.00 lakh & Rs.50.00 lakh sent in outward clearing – high value) in the current account of The Principal, Madras community college and the funds were used for purchase of high value Demand Drafts by the account holder. Subsequently the said instruments were returned unpaid. By knowing the fate of instruments returned unpaid, Your then Branch Manager, sanctioned and disbursed two overdraft limits in the names of*
*(i) T D K international – Limit of Rs.50.00 lakh on 08.011.2009*
*(ii) Mr. Raj Kumar – Limit Rs.40.00 lakh on 10.11.2009*
*and transferred the funds totaling to Rs.90.00 lakh from these two accounts to the account of The Principal, Madras Community College, thereby illegitimately funding the cheque returned liability of The Principal, Madras Community College.*
*As the Assistant Branch Manager of the branch, you failed to inform the higher authorities about the then Branch Manager acting far in excess of his discretionary powers and his highly irregular sanction of advances for covering up huge cheque returned liability.*

*9.As Assistant Branch Manager of your branch you made false certification in the monthly audit returns submitted to CO, Chennai. You have reported to Circle Office that there is no overdue BPs / BPs returned unpaid in your branch despite a few items were pending for reversal as on 30.04.2009, 31.05.2009 and also on*

*31.03.2010."*

6. A perusal of the above charges and the stand of the petitioner as explained in his explanation dated 04.08.2010, does not show that the petitioner has practically denied the charges. On the other hand, the same would disclose an admission on the part of the petitioner admitting the commission acts alleged in the charges by the petitioner himself, however, they are all stated to have been committed at the instance of the Branch Manager. For instance, as against the charge No.5, the explanation offered by the petitioner is as under:

> *"Item No.05: The original entry of transferring the funds from the Home Loan account of Mr T.R.Gopalakrishnan to Intermediary Parking Account was taken up as per the instructions of the Branch Manager. This was done with an assumption that for release of funds either to the contractor or to the dealers for construction/procurement, demand drafts cannot be issued directly to the debit of loan account, in the prevailing system, and to facilitate issue of demand drafts Intermediary Parking Account has been provided in the newly designed CBS system.*
>
> *Hence, my role was restricted to the level of crediting the Intermediary Parking account and I am totally innocent on the other part of the transactions alleged in the charge."*

7. A perusal of the charge itself discloses that the same is grave in nature, wherein the petitioner had debited the amounts from the Home Loan

account of one Mr.T.R.Gopalakrishnan, routed the said amount through Intermediary Parking Account and ultimately, credited it to the account of Madras Community College, with which Mr.T.R.Gopalakrishnan is in no way connected. The said funds were utilized for the issuance of high value DDs from the account of Madras Community College, thereby the said amount was fraudulently transferred from the IBHL account to Intermediary Parking account. The transferring of the said amounts by the petitioner is not denied by the petitioner in his explanation. However, the same is stated to have been done as per the instructions of the Branch Manager. In the absence of any denial of commission of such misconduct by the petitioner, even if the same is at the instance of the Branch Manager, the petitioner cannot escape his liability. Transferring amounts from one account to another unconnected account itself is a fraud on the customer, which is apparent and therefore, the stand of the petitioner that he acted as per instructions of Branch Manager believing it to be in conformity with the Rules does not deserve consideration. Even in respect of other charges that are held to have been proved by the enquiry officer also, the same is the stand of the petitioner. If not all the charges, even in respect of Charge No.5 also, the explanation of the petitioner is accepted as it is, he cannot be said to be not at fault. The Charge No.5 is grave enough to impose a capital punishment on the petitioner.

8. The contention of the learned counsel for the petitioner that the Branch Manager in question by name Mr.Sridhar has admitted about his guilt and he was dismissed from service and therefore, the petitioner cannot be imposed with capital punishment, as he has simply followed the instructions of the Branch Manager cannot accepted, for the simple reason that the petitioner being a responsible officer in the Managerial cadre is supposed to act in accordance with the Rules and Regulations in the best interest of the Bank but not in terms of the alleged oral instructions of the Branch Manager and thereby acting detrimental to the interest of the respondent Bank. The respondent disciplinary authority, having taken note of the said contention of the petitioner that he has been acted in terms of the instructions of the Branch Manager, refrained from imposing the punishment of dismissal from service and restricted the punishment to that of compulsory retirement from service.

9. In the light of the above, this Court, does not see any reason to go in detail with the other charges that are held to have been proved against the petitioner, and is thoroughly convinced with the punishment of compulsory retirement imposed on the petitioner can under no circumstances be said to be the one disproportionate, much less shockingly disproportionate, to the

charges levelled against the petitioner. In the circumstances, this Court does not find any merit in the writ petition and the same is accordingly dismissed.

10. At this stage, it is brought to the notice of this Court that in view of the pendency of the writ petition, the respondents have not released the pensionary benefits and pension in favour of the petitioner. If that be the case, the respondents are directed to forthwith release the terminal benefits, pension and other pensionary benefits which are due to the petitioner as per Rules, as expeditiously as possible, at any rate, within a period of four (4) weeks from the date of receipt of a copy of this order.

11. Accordingly, the writ petition is dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

**21.07.2025**

dpa

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

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**MUMMINENI SUDHEER KUMAR, J.**

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