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1IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MR.JUSTICE K. SURENDER

WP No.38883 of 2015

A.Harendra Babu ... Petitioner

Vs

1. The Executive Director/
Appellate Authority, Indian Overseas
Bank, Central Office,
No.762, Anna Salai,
Chennai-600 002.

2. The General Manager/
Disciplinary Authority, Indian Overseas Bank,
Central Office,
No.762, Anna Salai, Chennai-600 002. …Respondents

PRAYER: This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in DO:GM(KL):DA:VIG:F-8741:515:2015-16 dated 18.04.2015 and the subsequent orders passed by the 1st respondent in DO:VIG:ED(PKB)/AA:8741/3581:2015-16 dated 11.08.2015 and to quash the same and consequently direct the respondents to reinstate the petitioner into service with all consequential and other attendant benefits.

For Petitioner(s): Mr.J.Jayamalan
for Mr.S.Nedunchezhiyan

For Respondent(s): Mr.K.Srinivasamurthy for R1 & R2
for M/s.Row & Reddy.

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ORDER

The petitioner has filed this Writ Petition challenging the proceedings issued by the 2nd respondent in DO:GM(KL):DA:VIG:F-8741:515:2015-16 dated 18.04.2015 and the subsequent orders passed by the 1st respondent in DO:VIG:ED(PKB)/AA:8741/3581:2015-16 dated 11.08.2015, seeking reinstatement into service with all consequential and other attendant benefits.

2. The brief facts of the case are that the petitioner, A.Harendra Babu was appointed as a Clerk/Shroff/Typist in Indian Overseas Bank (IOB). Another employee, M.Ganesan, was working as a Special Cadre Assistant (SCA) in the same bank. Both the petitioner and M.Ganesan were charged for allegation of colluding and misappropriating a sum of Rs.23,313/-. The allegations against them were that they stealthily removed a stale DD favoring TNEB, cancelled it, and issued a new DD in the name of K.Kumar. The money was remitted to Ganesan's account from Kumar's account and a part of it was sent to the petitioner's account. The Deputy General Manager/Disciplinary Authority issued a Charge sheet cum suspension order on 24.06.2014. The petitioner submitted his explanation and an enquiry was conducted. Subsequently, the second respondent issued a final order on 18.04.2015, imposing a punishment of dismissal from service to the petitioner and Ganesan was punished with compulsory retirement. Aggrieved over the disparity in awarding punishment, the petitioner has preferred this Writ Petition.

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3. The learned counsel for the petitioner would submit that even if the charges levelled against the petitioner are proved, the bank has erred in awarding the punishment of dismissal from service to the petitioner since the punishment is harsh. However, for the same charges, the other employee M.Ganesan, was awarded with the punishment of compulsory retirement. Therefore, the learned counsel prays that this Court shall award the petitioner the punishment of compulsory retirement, similar to M.Ganesan, as both were charged with misappropriating Rs.23,313/-, which amount belongs to TNEB.

4. The learned counsel for the respondent bank would submit that the quantum of misappropriation is not the sole criterion; rather, it is the trust reposed in a bank employee to serve its clients with integrity. The petitioner is expected to conduct himself in a manner that ensures the best interests of the customers and refrains from any activity that may compromise their trust. It is further submitted that once the trust is eroded, it becomes challenging for the bank to function effectively, particularly with an employee involved in such fraudulent activities. In support of his contention, the learned counsel relied on on the judgment of the Hon'ble Supreme Court of India in ***State of U.P. and Others Vs. Nand Kishore Shukla And Another***, reported in (1996) 3 SCC 750, and ***Tara Chand Vyas Vs. Chairman & Disciplinary Authority and Others***, reported in (1997) 4 SCC 565.

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5. Heard the arguments advanced by the leaned counsel appearing on either side and perused the material available on record.

6. It is true that the quantum of misappropriation may not be the sole criterion for deciding the fraudulent act committed by an employee. However, the bank must ensure that action is taken without any bias or prejudice, treating all employees equally and fairly.

7. According to the respondent bank's own admission, Ganesan was in possession of a password for cancelling and issuing DD. Though, the learned counsel for the respondent bank argues that the petitioner took full responsibility for the alleged fraudulent act, it is apparent from the record that M.Ganesan had the authority to cancel and issue DD and the bank had entrusted him with the password for cancelling and issuing DD.

8. The bank conducted two separate enquiries against the petitioner and M.Ganesan for the same allegation. As previously discussed, M.Ganesan was entrusted with the password by the bank for creating and cancelling the DD. Since the authority to cancel and issue DD was with Ganesan, the question of obtaining the DD by the petitioner without the active involvement of Ganesan does not arise. Since M.Ganesan was punished with compulsory retirement, I do not see any reason, as to why, the petitioner was awarded the

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harsher punishment of dismissal from service. The argument advanced by the learned counsel for the respondent bank that the petitioner confessed to the crime and tried to cover up M.Ganesan's involvement, warranting severe punishment, is not tenable. The bank itself entrusted M.Ganesan with password, the claim that the petitioner was covering up for Ganesan appears to be forfeited. In the present facts, it cannot be termed as an act of such gravity, deserving dismissal from service. On the grounds of parity and reasons discussed above, this Court finds that the punishment of dismissal from service is harsh and compulsory retirement would serve the ends of justice.

9. Accordingly, this Writ Petition is partly allowed. The proceedings issued by the 2nd respondent in DO:GM(KL):DA:VIG:F-8741:515:2015-16 dated 18.04.2015 and the subsequent orders passed by the 1st respondent in DO:VIG:ED(PKB)/AA:8741/3581:2015-16 dated 11.08.2015 are hereby set aside, by imposing punishment of compulsory retirement to the petitioner. It is needless to say that any benefits that accrue on account of compulsory retirement shall be provided to petitioner, within a period of twelve weeks from the date of receipt of copy of this order. No costs.

K.SURENDER, J.
08-10-2025

Jai
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes

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To
1. The Executive Director/
Appellate Authority, Indian Overseas
Bank, Central Office,
No.3762, Anna Salai,
Chennai-600 002.

2. The General Manager/
Disciplinary Authority, Indian Overseas Bank,
Central Office,
No.762, Anna Salai, Chennai-600 002.

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K.SURENDER, J.

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WP No. 38883 of 2015

08-10-2025