IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.03.2025

Coram:

THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.1406 of 2022
and C.M.P.Nos.9027 & 9030 of 2022

P.Matheswaran

...Appellant

Versus

State Bank of India
Rep. by its Regional Manager (Region IV)
(Disciplinary Authority)
Regional II, Network 2
Kurinji Complex,
State Bank Road,
Coimbatore – 641 018.

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 11.04.2022 in W.P.No.8155 of 2015 as illegal, arbitrary and contrary to law.

For Appellant	:	Mr.Balan Haridas
For Respondent	:	Mr.S.Ravindran, Senior Counsel for Mr.K.Chandrasekaran

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.)**

This Intra Court Appeal is preferred against the order dated 11.04.2022 passed by the Writ Court in W.P.No.8155 of 2015.

2. The Appellant/Writ Petitioner filed the above Writ Petition for the following relief:-

> *"To call for the concerned records from the respondent, quash the charge sheet dated 13.04.2013 bearing DIS/CON/05 issued by the respondent issued under the memorandum of Settlement dated 10.04.2002 and the second show cause issued by the Respondent dated 10.03.2015 bearing RM-II/P&C-71, as illegal, arbitrary and contrary to the memorandum of settlement dated 10.04.2002."*

3. By the impugned order dated 11.04.2022, the Writ Court dismissed W.P.No.8155 of 2015 with the following observation:-

> *"15. From the sequence of the events, it is seen that show cause notice was issued and his explanation was called for and not being satisfied with his explanation, the charge memo was issued and the enquiry proceedings were conducted. The petitioner was given opportunity to appear and defend in conformity with the principles of natural justice. In the order passed in W.P.No.29172 of 2013, this Court has given a direction to dispose of his representation dated 19.09.2013*

seeking relevant vouchers and documents. Accordingly, on 29.11.2013, the documents were furnished. Again he approached this Court by way of a writ petition in W.P.No.34052 of 2013, for furnishing of documents, wherein this Court has passed the following order:

> *"5.The only ground raised by the learned counsel appearing for the petitioner is that the vouchers and documents sought for by the petitioner on his representations, which are required to defend himself in the enquiry were not furnished by the respondents. Therefore, a direction has to be given to the respondents to furnish those documents. But, I find that pursuant to the order passed by this Court in W.P.No.29172 of 2013 dated 30.10.2013, the respondent Bank has furnished what are all documents available with them. So far as the other documents are concerned, the respondent Bank has clearly stated in their impugned order that the documents are not available with them. When the respondent Bank has stated that the documents are not available with them, this Court cannot give any mandamus directing the respondents to furnish the said documents. As contended by the learned counsel appearing for the respondent Bank, this writ petition has been filed only to protract the proceedings under some pretext or other. Except a bald statement in the affidavit, the petitioner has not pointed out in the affidavit that as to how the non-supply of certain documents would cause prejudice to him. Moreover, when the respondents say that the said documents are not available with them, this Court cannot compel them to furnish those documents. Therefore, I do not find any merits in this writ petition and the same is liable to be dismissed."*

16. It is observed by this Court that the petitioner has not raised any point due to non supply of certain documents and it was also observed that the writ petition was filed with an ulterior motive to protract the proceedings. Against the order in W.P.No.34052 of 2013 dated 07.02.2014, the petitioner has preferred the writ appeal and the same was withdrawn on 05.08.2014. It is contended by the respondent that the petitioner had failed to cooperate in the enquiry proceedings and refused to cross examine the departmental witnesses and therefore, the enquiry was closed and he was directed to submit his defense brief. After submitting the defense brief, it was found that charge Nos.1, 2, 3 and 6 were proved and charge nos.4 and 5 were not proved. At this stage, a second show cause notice was issued proposing the punishment of dismissal from service and personal hearing was also provided.

17. The petitioner has challenged the second show cause notice by way of writ petition in W.P.No.18163 of 2014 on the ground of denial of opportunity and to conduct the enquiry afresh. When that matter was taken up for hearing, the learned counsel for the petitioner submitted that he is not pressing the prayer with regard to cross examination of four witnesses of the Management side, but sought permission to examine himself and two other witnesses on his side and to produce certain documents. Recording his submissions, the second show cause notice was set aside and the petitioner was permitted to examine three witnesses namely, the delinquent - the petitioner herein, V.Neelambal, his wife and R.G.Deivasigamani, his sister-in-law's son, the borrower within a period of four weeks from 21.07.2014 and he was permitted to pursue the documents, which were available in the respondent Bank.

18. Again, an enquiry report was submitted by the Enquiry Officer on 20.08.2014 and it was forwarded to the petitioner on 21.08.2014, wherein charge nos.1 to 4 and 6 were held proved and charge no.5 was not proved. On 05.09.2014, the petitioner submitted his objections and on 10.03.2015, the impugned second show cause notice was issued proposing the punishment of dismissal from service and a personal hearing on 14.03.2015 was also fixed.

19. Now that from the sequence of events, it can be seen that the procedure contemplated for conducting the domestic enquiry has been properly followed. In BOLORAM BORDOLOI VS. LAKHIMI GAOLIA BANK AND OTHERS [2021 SCC ONLINE SC 65] the Hon'ble Supreme Court has held as under:

> *"7.........Merely because a show cause notice is issued by indicating the proposed punishment it cannot be said that disciplinary authority has taken a decision. A perusal of the show cause notice dated 30.07.2005 itself makes it clear that along with the show cause notice itself enquiry report was also enclosed. As such, it cannot be said that the procedure prescribed under the rules was not followed by respondent bank. We are of the view that the judgment of this Court in the case of Managing Director, ECIL, Hyderabad (supra) is not helpful to the case of the appellant. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the Enquiry Officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in*

the enquiry report, as such, no further C.A.No.4394 of 2010 elaborate reasons are required to be given by the disciplinary authority. As the departmental appeal was considered by the Board of Directors in the meeting held on 10.12.2005, the Board?s decision is communicated vide order dated 21.12.2005 in Ref.No.LGB/I&V/Appeal/31/02/2005-06. In that view of the matter, we do not find any merit in the submission of the learned counsel for the appellant that orders impugned are devoid of reasons."

20. From a perusal of the impugned second show cause notice, it is noted that the disciplinary authority after applying its mind independently and dispassionately and considering the gravity of charges, proposed to impose the punishment of dismissal from service in terms of Clause 6(a) of the Memorandum of Settlement dated 10.04.2002. As per Clause 6(a) of the Memorandum of Settlement, an employee found guilty of gross misconduct may be dismissed from service without notice.

21. In the instant case, the gravity of misconduct is that while he was working in Erode Branch of the respondent Bank between 2008 and 2010, a loan account was opened in the name of his wife, for the housing loan availed by his sister-in-law's son and a sum of Rs.25 Lakhs was disbursed and credited in his wife's account. From the loan account of his wife, it was transferred to the Savings Bank account of his wife. The money was withdrawn and spent towards construction of the house. The petitioner cannot feign ignorance of the fact that the money was disbursed to the loan account of his wife and it was transferred to her Savings Bank account and that money was withdrawn by the petitioner or his wife or any other family member.

22. The fact remains that admittedly, his sister-in-law's son R.G.Deivasigamani was a Non-Resident Indian. The further charge is that accounts were opened and operated and handled without mandate of the customer and that the petitioner had active role or atleast knowledge of the irregularities. This allegation whether falls under the expression "gross misconduct" is correct or not ? is to be analysed.

23. The learned counsel appearing for the petitioner would rely on a judgment of this Court in S.GUNASEKAR VS. STATE BANK OF INDIA AND OTHERS [W.P.NOS.13601 AND 23060 OF 2014 DATED 25.11.2014]. In that case, the employee, who was an Office Bearer of the Welfare Association as well as Trade Union went out of the Branch after *signing the attendance and without getting prior permission personally distributed hand bills to the general public and several members. For that, the charge under Clause 5(j) of the Memorandum of Settlement was issued. Clause 5(j) of the Memorandum of Settlement reads as under:*

> *"5.(j) doing any act prejudicial to the interest of the bank or gross negligence involving or likely to involve the bank in serious loss."*

24. This Court found that the misconduct committed by the petitioner therein will not fall within the expression made in Clause 5(j) of the Memorandum of Settlement and therefore, set aside the charge memo under that provision and permitted the respondent / Bank to proceed with the other charges framed under appropriate Clauses of the Memorandum of Settlement dated 10.04.2002.

25. In the instant case, as observed in the previous paragraphs, opening of loan account in the name of the petitioner's wife and transferring the money to another Savings Bank account using Letter of Authority given by his sister-in-law's son, cannot be taken lightly, more particularly, when the borrower is a Non-Resident Indian and submitted application online as averred by the petitioner in the affidavit filed in support of the writ petitioner. In such cases, the judgment relied on by the learned counsel for the petitioner in S.GUNASEKAR VS. STATE BANK OF INDIA AND OTHERS [W.P.NOS.13601 AND 23060 OF 2014 DATED 25.11.2014] will not apply to the case on hand. The misconduct will fall within Clause 5(j) of the Memorandum of Settlement dated 10.04.2002.

26. The learned counsel for the petitioner would also rely on a judgment of the Hon'ble Supreme Court in GLAXO LABORATORIES (I) LIMITED VS. LABOUR COURT, MEERUT AND OTHERS [CIVIL APPEAL NO.2911 (NL) OF 1981 DATED 06.10.1983] wherein Their Lordships' have observed that some misconduct neither defined nor enumerated which may be believed by the employer to be misconduct ex post facto would expose the workman to a penalty. Any condition of service if inconsistent with certified standing orders, the same would not prevail and the certified standing orders would have precedence over all such agreements.

27. As such, according to the learned counsel for the petitioner, the charge memo will not amount to gross misconduct and that the loan *account was known to more than 70 staff members during the period from 2008-2010 and therefore, for the suppression of misconduct committed by others and for want of action against the other officials shall not be construed as gross misconduct. But the charge memo for the minor penalty should have been imposed. I am unable to accept the contention of the learned counsel for the petitioner.*

28. As discussed above, the charge reveals serious misconduct and as such, the respondent Bank has rightly initiated proceedings under Clause 5(j) of the Memorandum of Settlement dated 10.04.2002. In view of the judgment of the Hon'ble Supreme Court in BOLORAM's case (cited supra) the second show cause notice cannot be considered as pre-determination and that issuance of charge memo for major penalty proceedings cannot be construed as illegal. Hence, I do not find any merits in this writ petition."

4. The brief facts of the case are that the Appellant/Writ Petitioner joined the Respondent Bank as a 'Clerk' on 11.11.1982. In the year 2001, the Appellant/Writ Petitioner was upgraded as a 'Senior Assistant' in the Respondent Bank. From the year 2008 till December 2010, the Appellant/Writ Petitioner was working as a 'Special Assistant' in the Respondent Bank at its Erode Branch.

5. While the Appellant/Writ Petitioner was working in the Erode Branch of the Respondent Bank from the year 2008 to 2010, the Appellant's/Writ Petitioner's nephew Mr.R.G.Deivasigamani, a Non-

Resident of India had applied for a Housing Loan at the Erode Branch of the Respondent Bank for a sum of Rs.35 Lakhs. The said R.G.Deivasigamani had also sent a Letter of Authority to the Erode Branch of Respondent Bank in this regard.

6. One Mr.Vasudevan, Field Officer opened a Loan Account bearing Account No.30460266666 in the name of Appellant's/Writ Petitioner's wife Mrs.V.Neelambal instead of opening the Loan Account in the name of the said R.G.Deivasigamani who applied for the loan. Hence, a sum of Rs.35 Lakhs was credited as Housing Loan to the Appellant's/Writ Petitioner's wife's Loan Account No.30460266666 on 20.08.2008.

7. On the very same day, the said amount of Rs.35 Lakhs was also transferred to the Appellant's/Writ Petitioner's wife's Savings Bank Account No.11063543034. It being so, the Appellant's/Writ Petitioner's nephew R.G.Deivasigamani withdrew most of the amount from the Savings Bank Account of Appellant's/Writ Petitioner's wife and used the same for construction work of the house.

8. On 02.09.2008, another Loan Account bearing Account No.30481879022 was opened in the name of R.G.Deivasigamani. The aforesaid Housing Loan of Rs.35 Lakhs was also fully repaid by the R.G.Deivasigamani. Thereafter, the Respondent Bank closed the Loan Account that stood in the name of Appellant's/Writ Petitioner's wife. The balance amount lying in the Appellant's/Writ Petitioner's wife's Loan Account bearing Account No.30460266666 was transferred to the R.G.Devasigamani's Loan Account bearing Account No.30481879022.

9. While so, the Respondent Bank issued a Charge Memo dated 13.04.2013 to the Appellant/Writ Petitioner. The Charges framed against the Appellant/Writ Petitioner in the Charge Memo dated 13.04.2013 read as under:

> *“**Charge 1:***
>
> *You were aware that the Account No.30460266666 to be opened in the name of Shri.R.G.Deivasigamani was opened in the name of your spouse, Smt.V.Neelambal. You failed to bring the matter to the notice of the official concerned for rectification through “Cheques referred and returned register”. You have suppressed the information and acted prejudicial to the interest of the Bank. This is evident from the following:*

1. A Housing Term Loan was sanctioned to Shri.R.G.Deivasigamani, a NRI for Rs.35.00 lacs on 20.08.2008 at Erode Branch. The loan Account was opened by the Deputy Manager (Advances) inadvertently in the name of your spouse, Smt.V.Neelambal, with A/c.No.30460266666. All the disbursement vouchers for the housing loan had been prepared by you in the name of R.G.Deivsigamani for the credit of SB A/c.No.11063543034, in the name of Smt.V.Neelambal, your spouse.
2. On 13.02.2009, the housing loan debit voucher for Rs.1,00,000/- was prepared by you in the name of Smt.Neelambal, your spouse, for the credit of her above SB Account.

Charge 2:

You have passed entries in the system without mandate from customer as evident from the following and breached the Bank's instructions:

1. On 02.12.2008, you have prepared and posted a voucher for Rs.40,000/- by debiting the NRE SB A/c.No.30386852850 in the name of Shri.R.G.Deivasigamani and credited HTL account No.30460266666 in the name of your spouse, Smt.V.Neelambal.
2. On 18.03.2009, you have debited the same NRE account for Rs.15,000/- and transferred the amount to your own OD A/c.No.10482643164.

Your above actions of debiting customers account without any mandate are in violation of Bank's instructions. Thus, you have acted prejudicial and detrimental to the interest of the Bank.

Charge 3:

You have entered into financial dealings with Bank's customer contrary to Banks' instructions. This is evident from the following transactions made by cash/transfer from your account, your spouse and daughter's accounts for the credit of the housing loan account of Shri.R.G.Deivasigamani (No.30460266666):

No.	Date	a/c No.	Name Sri/Smt	Dr Amount	Cr Amount	a/c No.
1	01.10.2009	11063543034	V.Neelambal	47000	30000 12000 5000	30460266666 30336534427 10482643164

No.	Date	a/c No.	Name Sri/Smt	Dr Amount	Cr Amount	a/c No.
2	07.10.2009	11063543034 10482644191 30743385844	V.Neelambal P.Matheswaran M.Manesa – Minor	3500 20000 26500	50000	30460266666
3	23.10.2009	10482643164	P.Matheswaran	60000	50000 10000	30460266666 30743385844
4	10.11.2009	10482644191	P.Matheswaran	40000	40000	30460266666
5	11.01.2010	10482643164	P.Matheswaran	45000	45000	30460266666
6	13.03.2010	10482644191	P.Matheswaran	30000	30000	30460266666
7	28.05.2010	30743385844 10482644191	M.Manesa – Minor P.Matheswaran	18000 22000	40000	30460266666
8	07.06.2010	10482644191	P.Matheswaran	100000	100000	30460266666
9	16.07.2010	10482644191	P.Matheswaran	35000	35000	30460266666
10	19.07.2010	10482643164	P.Matheswaran	15000	15000	30460266666
11	06.08.2010	10482644191	P.Matheswaran	40000	40000	30460266666
12	09.09.2010	10482644191	P.Matheswaran	44000	44000	30460266666
13	13.10.2010	10482643164	P.Matheswaran	30000	30000	30460266666
14	04.11.2010	10482644191	P.Matheswaran	35000	35000	30460266666
15	12.01.2011	10482644191	P.Matheswaran	10000	10000	30460266666
16	10.02.2011	10482644191	P.Matheswaran	20000	20000	30460266666
17	22.04.2010	Cash Txn. Voucher signed by P.Matheswaran			25000	30460266666
18	18.06.2010	Cash Txn. Voucher signed by P.Matheswaran			100000	30460266666
19	18.06.2010	Cash Txn. Voucher signed by P.Matheswaran			35000	30460266666
20	09.09.2010	Cash Txn. Voucher signed by P.Matheswaran			20000	30460266666
21	22.09.2010	Cash Txn. Voucher signed by P.Matheswaran			20000	30460266666
22	08.12.2010	Cash Txn. Voucher signed by P.Matheswaran			40000	30460266666

Thus, you have acted prejudicial and detrimental to the interest of the Bank.

Charge 4:

You have violated the Bank's instructions relating to CBS wherein withdrawal slips are not allowed for non-home transactions and the transactions of NRIs are not exempted from the instructions. This is evident from the fact that you have prepared withdrawal slips for large amounts on seven occasions during the period 20th August 2008 to 28th

February 2009 at Erode Branch for withdrawal of cash from your spouse Smt.V.Neelambal S.B.A/c.No.11063543034 maintained at Erode Town Branch (Non home) and facilitated to get the vouchers passed for payment. The Non Home transactions thus made were also observed as not recorded in the "Cheques referred and returned register" as required, for obtaining the approval from the Authorized official.

No.	Date	DR a/c no.	Name of the a/c holder	Dr amount (cash)	Non-Home
1	20.08.2008	11063543034	Smt.V.Neelambal	9,00,000	Dr-Non home - WS
2	20.08.2008	11063543034	Smt.V.Neelambal	8,00,000	Dr-Non home - WS
3	20.08.2008	11063543034	Smt.V.Neelambal	8,00,000	Dr-Non home - WS
4	02.09.2008	11063543034	Smt.V.Neelambal	5,00,000	Dr-Non home - WS
5	24.10.2008	11063543034	Smt.V.Neelambal	2,05,000	Dr-Non home - WS*
6	14.02.2009	11063543034	Smt.V.Neelambal	1,00,000	Dr-Non home - WS**
7	28.02.2009	11063543034	Smt.V.Neelambal	50,000	Dr-Non home – WS**

**Rs.2,05,000/- was posted by you in the system on 24.10.2008 in your ID.*
***Rs.1,00,000/- and Rs.50,000/- posted authorized in the system on 14.02.2009 and 28.02.2009 respectively in your ID & cash disbursed by you.*

Thus, you have acted prejudicial and detrimental to the interest of the Bank.

Charge 5:

Contrary to Bank's instructions you are maintained Staff Savings Bank A/c at two different Branches without approval from Appropriate Authority as evident from the following:

Account No.11023519756 at Erode Branch and another Staff SB Account No.10482644191 at Bhavani Sagar Branch are standing in your name. In addition, you have two other Current Accounts at Bhavani Sagar Branch, in your name and in the name of your minor daughter Ms.Manesa as F & NG. The aggregate credit summations in those accounts for the years 2008, 2009 and 2010 were 39,42,740,44,21,722 and 56,82,141/- respectively which are disproportionate to your known sources of income.

Thus, you have acted prejudicial and detrimental to the interest of the Bank.

Charge 6:

You have availed the following Housing Loans from Commercial Branch Erode in your name and Home Plus loan in the name of your Spouse without Administrative clearance from the controllers and thus acted prejudicial and detrimental to the interest of the Bank:

1. HTL (Staff) (A/c No: 31449206660) and public HTL (A/c No: 31707629742) in your name at Commercial Branch Erode.
2. Home Plus loan in the name of your spouse Smt.V.Neelambal at Erode Branch (A/c No.31193108582).”

10. After the receipt of the aforesaid Charge Memo, the Appellant/Writ Petitioner vide Letter dated 30.04.2013, requested the Respondent Bank to permit him to peruse the records and vouchers relating to the allegations levelled against him in the Charge Memo dated 13.04.2013. However, the request of the Appellant/Writ Petitioner was rejected by the Respondent Bank and the Appellant/Writ Petitioner was not permitted to peruse the said records and vouchers. Thereafter, the Respondent Bank vide Notice dated 24.05.2013, ordered for an enquiry against the Appellant/Writ Petitioner.

11. Meanwhile, the Appellant/Writ Petitioner made a Representation

dated 19.09.2013 to the Respondent Bank requesting for the vouchers and documents required to submit his defense statement in the enquiry proceedings, but, the request of the Appellant/Writ Petitioner was not considered by the Respondent Bank.

12. The Appellant/Writ Petitioner thus approached this Court by filing a Writ Petition in W.P.No.29172 of 2013 to direct the Respondent Bank and the Enquiry Officer to furnish the vouchers and documents more fully described in Representation dated 19.09.2013 and to forbear the Respondent Bank and Enquiry Officer from conducting the enquiry in respect of the Charge Memo dated 13.04.2013 till the receipt of said vouchers & documents by the Appellant/Writ Petitioner.

13. This Court vide Order dated 30.10.2013 disposed of the aforesaid W.P.No.29172 of 2013 and directed the Enquiry Officer and the Respondent Bank to consider and pass appropriate orders on the Representation dated 19.09.2013 of the Appellant/Writ Petitioner within a period of four weeks from the date of receipt of a copy of that order and

further directed the Enquiry Officer not to proceed with the enquiry in terms of the Charge Memo dated 13.04.2013 till the disposal of Representation dated 19.09.2013 of the Appellant/Writ Petitioner by the Respondent Bank.

14. Pursuant to the aforesaid order dated 30.10.2013 in W.P.No.29172 of 2013, the Enquiry Officer vide Letter dated 29.11.2013 supplied copies of the documents sought by the Appellant/Petitioner with regard to the charges framed against him in the Charge Memo dated 13.04.2012 that were available except certain confidential internal correspondence within the Respondent Bank which could not be furnished as they were considered to be privileged documents.

15. Thereafter, the Appellant/Writ Petitioner filed another Writ Petition in W.P.No.34052 of 2013 praying to quash the Letter dated 29.11.2013 of the Enquiry Officer and consequently, directed the Respondent Bank and the Enquiry Officer to furnish the vouchers and documents which were declined to be furnished vide Letter dated 29.11.2013 and to forbear the Respondent Bank and the Enquiry Officer

from conducting the enquiry in respect of the Charge Memo dated 13.04.2013 till all the vouchers and documents were furnished to the Appellant/Writ Petitioner. However, the said writ petition came to be dismissed by the Court vide Order dated 07.02.2014.

16. In this background, the Enquiry Officer proceeded with the enquiry proceedings against the Appellant/Writ Petitioner and submitted the Enquiry Report on 05.05.2014. Thereafter, the Respondent Bank vide Show Cause Notice dated 14.06.2014, called upon the Appellant/Writ Petitioner to appear for personal hearing regarding the proposal to impose punishment of "Be discharged from service with superannuation benefits" on the Appellant/Writ Petitioner in terms of Clause 6(d) of the Memorandum of Settlement dated 10.04.2002 entered between the Appellant/Writ Petitioner and the Respondent Bank.

17. Aggrieved by the aforesaid Show Cause Notice, the Appellant/Writ Petitioner filed a Writ Petition in W.P.No.18163 of 2014 praying to quash the Show Cause Notice dated 14.06.2014 and

consequently, to direct the Respondent Bank to conduct the domestic enquiry afresh in respect of the Charge Memo dated 13.04.2013 after furnishing the Appellant/Writ Petitioner due opportunity. The Court vide order dated 11.07.2014, set aside the Show Cause Notice dated 14.06.2014 issued to the Appellant/Writ Petitioner and allowed the aforesaid Writ Petition. Operative portion of the Order dated 11.07.2014 in W.P.No.18163 of 2014 reads as under:

> *"7. Considering the said submissions made by the learned counsel on either side and also considering the fact that the writ petition has been filed only on the ground that the impugned order has been passed without giving an opportunity to the petitioner to examine the witnesses, without going into the merits of the case, I am inclined to set aside the impugned order. Accordingly, the impugned order is set aside. The respondent is directed to permit the petitioner to examine three witnesses only, namely, the delinquent (petitioner herein), V.Neelambal and R.G.Deivasigamani (borrowers). The petitioner is directed to appear before the enquiry officer concerned on 21.07.2014 and to co-operate with the enquiry. The enquiry officer concerned is directed to proceed with the enquiry on day to day basis and complete the entire proceedings and pass appropriate orders in accordance with law, within a period of four weeks from 21.07.2014. It is made clear that the petitioner will be permitted to peruse the documents available with the respondent as per the undertaking given by the learned counsel for the respondents. To this extent, this consent order is passed."*

18. Pursuant to the aforesaid Order dated 11.07.2014, the enquiry in respect of the Charge Memo dated 13.04.2013 was re-opened by the

Enquiry Officer. After the completion of enquiry of charges framed against the Appellant/Writ Petitioner, the Enquiry Officer submitted the Enquiry Report on 20.08.2014 before the Respondent Bank. The Respondent Bank vide Letter dated 21.08.2014, forwarded the said Enquiry Report dated 20.08.2014 to the Appellant/Writ Petitioner. In the Enquiry Report, the Enquiry Officer held that except Charge No.5, all other charges viz., Charge Nos.1 to 4 & 6 framed against the Appellant/Writ Petitioner were proved.

19. Thereafter, the Respondent Bank vide another Show Cause Notice dated 10.03.2015, called upon the Appellant/Writ Petitioner to appear for personal hearing on 14.03.2015 proposing to impose punishment of "Dismissal from service" on the Appellant/Writ Petitioner in terms of Clause 6(a) of the Memorandum of Settlement dated 10.04.2002 entered between the Appellant/Writ Petitioner and the Respondent Bank.

20. Challenging the Charge Memo dated 13.04.2013 and Show Cause Notice dated 10.03.2015, the Appellant/Writ Petitioner filed the Writ Petition in W.P.No.8155 of 2015. When W.P.No.8155 of 2015 was pending

before the Writ Court, the Appellant/Writ Petitioner attained the age of superannuation. Hence, the Appellant/Writ Petitioner was allowed to retire from service by the Respondent Bank on 30.04.2021. Thereafter, the Writ Court dismissed the W.P.No.8155 of 2015 vide impugned order dated 11.04.2022. Hence, the aggrieved over the Order dated 11.04.2022 of the Writ Court, the Appellant/Writ Petitioner preferred the present Writ Appeal.

21. Assailing the impugned order of the Writ Court and the enquiry proceedings, the learned counsel for the Appellant/Writ Petitioner submitted that the Housing Loan of Rs.35 Lakhs availed by the Appellant's/Writ Petitioner's nephew R.G.Deivasigamani was fully repaid without inflicting any pecuniary loss to the Respondent Bank. However, it is stated that the Respondent Bank issued the Charge Memo dated 13.04.2013 to the Appellant/Writ Petitioner to harass the Appellant/Writ Petitioner.

22. The learned counsel further submitted that since the Appellant/Writ Petitioner attained the age of superannuation and had retired from the service of Respondent Bank on **30.04.2021**, the disciplinary

proceedings initiated against the Appellant/Writ Petitioner by the Respondent Bank pursuant to the Charge Memo dated 13.04.2013 cannot be continued further.

23. That apart, the learned counsel for the Appellant/Writ Petitioner submitted that in the Charge Memo dated 13.04.2013 issued to the Appellant/Writ Petitioner, it has been stated that the charges levelled against the Appellant/Writ Petitioner amount to 'Gross Misconduct' in terms of Clause 5(j) of the Memorandum of Settlement dated 10.04.2002 entered between the Appellant/Writ Petitioner and the Respondent Bank. However, it is stated that the charges levelled against the Appellant/Writ Petitioner will not amount to any serious misconduct under Clause 5(j) of the aforesaid Memorandum of Settlement dated 10.04.2002.

24. The learned counsel for the Appellant/Writ Petitioner drew our attention to the Letter dated 31.07.2014 addressed to the Enquiry Officer by the Appellant's/Writ Petitioner's nephew R.G.Deivasigamani, wherein, it was stated that the Appellant/Writ Petitioner was continuously harassed by

the Respondent Bank since 2012 by issuing letters, calling for explanation, framing charges and contemplating disciplinary proceedings for an error committed by the 'Field Officer' in opening of the Loan Account in which the Appellant/Writ Petitioner has no role to play. It is stated that even after the receipt of said letter from the Loan Account Holder, Mr.R.G.Deivasigamani, the Respondent Bank proceeded to frame charges against the Appellant/Writ Petitioner.

25. In support of the above submissions, the learned counsel for the Appellant/Writ Petitioner has placed reliance on the following decisions:

(i) Chief of Army Staff & Ors. Vs. Major Dharam Pal Kukrety *AIR 1985 SC 703*

(ii) Bhagirathi Jena Vs. Board of Directors, O.S.F.C. & Ors. *(1999) 3 SCC 666*

(iii) Kalabharati Advertising Vs. Hemant Vimalnath Narichania & Ors. *(2010) 9 SCC 437*

(iv) S.Gunasekar Vs. State Bank of India & Ors. *2015 SCC Online Mad 4077*

(v) S.Andiyannan Vs. The Joint Registrar & Anr. *(2015) 3 LW 513*

26. On the other hand, defending the impugned order of the Writ Court, the learned Senior Counsel for the Respondent Bank submitted that the Appellant/Writ Petitioner approached this Court repeatedly and purportedly delayed the disciplinary proceedings.

27. It is further stated that the Appellant/Writ Petitioner was in service in the Respondent Bank till he attained the age of superannuation on 30.04.2021 and therefore, stated that the Respondent Bank was not responsible for the delay in completion of disciplinary proceedings since the Show Cause Notice dated 14.06.2014 issued to the Appellant/Writ Petitioner was set aside by the Writ Court vide Order dated 11.07.2014 in W.P.No.18163 of 2014 filed by the Appellant/Writ Petitioner.

28. The learned Senior Counsel for the Respondent Bank further submitted that the conduct of the Appellant/Writ Petitioner as an Officer of the Respondent Bank amounts to "Gross Misconduct" in terms of Clause 5(j) of the Memorandum of Settlement dated 10.04.2002.

29. It is submitted by the learned Senior Counsel for Respondent Bank that the Appellant/Writ Petitioner opened a Bank Account in his wife's name and made transactions breaching the interests of the Respondent Bank. It is stated that the actions of the Appellant/Writ Petitioner amounted to gross violation of the interests of the Respondent Bank and also, incurred serious loss to the Respondent Bank.

30. It is further submitted by the Respondent Bank that it is incumbent on part of the Appellant/Writ Petitioner who had committed mistakes by opening Loan Account in the name of his wife to demonstrate the modus adopted in operation of his wife's Loan Account No.30460266666.

31. In support of the submissions, the learned Senior Counsel for the Respondent Bank placed reliance on the following decisions:

*(i) **State Bank of India & Ors. Vs. T.J.Paul** (1999) 4 SCC 759*

*(ii) **State Bank of India & Anr. Vs. Bela Bagchi & Ors.** (2005) 7 SCC 435*

*(iii) **Executive Director, Corporation Bank Vs. P.R.Shantharam***

(2021) 4 LLN 335 (DB) (Mad)

(iv) Indian Overseas Bank & Ors. Vs. Om Prakash Lal Srivastava *(2022) 3 SCC 803*

32. We have heard the learned counsel for the Appellant/Writ Petitioner and the learned Senior Counsel for the Respondent Bank and have perused the materials placed before this Court.

33. It is not in dispute that even before filing of Writ Petition in W.P.No.8155 of 2015, the Appellant/Writ Petitioner had already filed three Writ Petitions viz., W.P.Nos.29172 of 2013, 34052 of 2013 & 18163 of 2014. Out of these three writ petitions, in two writ petitions viz., W.P.Nos.29172 of 2013 & 18163 of 2014, the Appellant/Writ Petitioner had secured order in his favour.

34. There were several irregularities in the disciplinary proceedings initiated by the Respondent Bank against the Appellant/Writ Petitioner which were noticed by this Court and hence, the Courts had passed orders in favour of the Appellant/Writ Petitioner in the aforesaid two Writ Petitions

preferred by the Appellant/Writ Petitioner against the disciplinary proceedings initiated against him by the Respondent Bank.

35. The Writ Court while admitting the W.P.No.8155 of 2015 was also pleased to grant an order of interim injunction by restraining the Respondent Bank from proceeding with the Show Cause Notice dated 10.03.2015, as a result of which, the disciplinary proceedings initiated against the Appellant/Writ Petitioner have remained inconclusive. While the Writ Petition in W.P.No.8155 of 2015 was pending, the Appellant/Writ Petitioner attained the age of superannuation on 30.04.2021 and was relieved.

36. From a reading of the facts narrated above, it is crystal clear that the Appellant/Writ Petitioner was in service at the Respondent Bank for over a period of 38 years i.e., from 11.11.1982 till 30.04.2021 and was continuously facing proceedings since 13.04.2013.

37. The Respondent Bank vide Show Cause Notice dated

14.06.2014, called upon the Appellant/Writ Petitioner to appear for personal hearing regarding the proposal to impose punishment of "Be discharged from service with superannuation benefits" on the Appellant/Writ Petitioner in terms of Clause 6(d) of the Memorandum of Settlement dated 10.04.2002. Relevant portion of the Show Cause Notice dated 14.06.2014 is reproduced below:-

> *"2. I have carefully gone through the facts of the case, the submissions of the prosecution as well as the defence, the enquiry proceedings, the Enquiry Officer's Report and I concur with the findings of the Enquiry Officer. After applying my mind independently and dispassionately to the case and considering the nature and gravity of the charges proved, I propose to impose on you the punishment of "Be discharged from service with superannuation benefits" in terms of clause 6(d) of Memorandum of Settlement dated 10.04.2002."*

38. After the receipt of aforesaid Show Cause Notice dated 14.06.2014, the Appellant/Writ Petitioner filed W.P.No.18163 of 2014 before this Court seeking to quash the aforesaid Show Cause Notice and to direct the Respondent Bank to conduct a fresh domestic enquiry in respect of Charge Memo dated 13.04.2013. By order dated 11.07.2014, the Court had set aside the Show Cause Notice and allowed the W.P.No.18163 of 2014 with a direction to the Enquiry Officer to proceed with the enquiry of

the charges framed against the Appellant/Writ Petitioner.

39. Pursuant to the order dated 11.07.2014, the enquiry was re-opened. The Enquiry Officer submitted the Enquiry Report on 20.08.2014 before the Respondent Bank. Thereafter, the Respondent Bank vide Show Cause Notice dated 10.03.2015, called upon the Appellant/Writ Petitioner to appear for personal hearing on 14.03.2015 regarding the proposal to impose a much harsher punishment of "Dismissal from service" on the Appellant/Writ Petitioner purportedly in terms of Clause 6(a) of the Memorandum of Settlement dated 10.04.2002. Relevant portion of the Show Cause Notice dated 10.03.2015 reads as under:

> *"2. I have carefully gone through the facts of the case, the submissions of the prosecution as well as the defence, the enquiry proceedings, the Enquiry Officer's Report (Re-opened enquiry), your submissions and I concur with the findings of the Enquiry Officer. After applying my mind independently and dispassionately to the case and considering the nature and gravity of the charges proved, I propose to impose on you the punishment of "Dismissal from service" in terms of Clause 6(a) of Memorandum of Settlement dated 10.04.2002."*

40. Thus, it is evident that the Respondent Bank changed the goal post from "discharge from service with superannuation benefits" to

"dismissal from service". These punishments proposed to the imposed on the Appellant/Writ Petitioner vide aforesaid Show Cause Notices have different consequences under the aforesaid Memorandum of Settlement dated 10.04.2002.

41. The fact remains that the disciplinary proceedings initiated against the Appellant/Writ Petitioner have not been completed. The punishment that can be imposed against the Appellant/Writ Petitioner based on the Enquiry Report of the Enquiry Officer should be in terms of the Show Cause Notice dated 14.06.2014 and not in terms of the Show Cause Notice dated 10.03.2015 issued by the Respondent Bank.

42. We are therefore of the opinion that the maximum punishment that can be imposed against the Appellant/Writ Petitioner by the Respondent Bank is discharging the Appellant/Writ Petitioner from service with superannuation benefits. Since the Appellant/Writ Petitioner had attained the age of superannuation on 30.04.2021 during the pendency of the Writ Petition and continued in service during the course of disciplinary

proceedings, dismissal of the Writ Petition was without justification.

43. There is no provision under the Rules which allows the Bank to continue with the disciplinary proceedings after its employee was allowed to retire from the service of the Bank.

44. It is to be noted that order dated 30.10.2013 in W.P.No.29172 of 2013 & order dated 11.07.2014 in W.P.No.18163 of 2014 were passed by the Court are in favour of the Appellant/Writ Petitioner. There is an enormous delay in completion of the disciplinary proceedings by the Respondent Bank. That apart, the Appellant/Writ Petitioner already attained the age of superannuation and was allowed to retire from the service from the Respondent Bank on 30.04.2021. Therefore, question of termination from service cannot be countenanced.

45. In the aforesaid circumstances, the disciplinary proceedings initiated against the Appellant/Writ Petitioner by the Respondent Bank ought not to have been continued further as it was meaningless in view of

superannuation of the Appellant/Writ Petitioner. Hence, we are of the view that the impugned order of the Writ Court is liable to be set aside.

46. Accordingly, the impugned order dated 11.04.2022 passed by the Writ Court in W.P.No.8155 of 2015 is set aside. Consequently, Charge Memo dated 13.04.2013 & Show Cause Notice dated 10.03.2015 issued by the Respondent Band are hereby quashed. The Respondent Bank is therefore directed to release the arrears of salary and terminal benefits to the Appellant/Writ Petitioner without any further delay, preferably within a period of six weeks from the date of receipt of a copy of this judgment.

47. In the result, this Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) **(C.S.N., J.)**
13.03.2025

mrr

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order

To

Regional Manager (Region IV)
(Disciplinary Authority),
State Bank of India,
Regional II, Network 2
Kurinji Complex,
State Bank Road,
Coimbatore – 641 018.

S.S.SUNDAR, J.
and
C.SARAVANAN, J.

mrr

W.A.No.1406 of 2022

13.03.2025