IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

W.P.No.41113 of 2016
and
W.M.P.No.35104 of 2016

Judgment reserved on 14.03.2025	**Judgment pronounced on 02.06.2025**

K.Viswanathan ...Petitioner

.....Vs.....

1.The Deputy General Manager,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002.

2. The Chief Manager,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002. .....Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in DO:DGM (AVP):AA:Vig:F-8472:2014-15/6948 dated 10.03.2015 confirming the order passed by the second respondent in DO:CDAC:CM(RP):DA:Vig:F-

8472:2014-15 4503, dated 28.10.2014 and quash the said orders and direct the respondents to reinstate the petitioner in service with all attendant and consequential benefits.

For Petitioner : Mr.M.E.Raniselvam

For R1&R2 : Mr.K.Srinivasa Murthy

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ORDER

The petitioner filed the writ petition seeking to quash the order of dismissal from service passed by the first respondent, which was confirmed by the second respondent, and for reinstatement with attendant benefits.

2. The service details of the petitioner are as follows:

(i) Appointment and Suspension:

The petitioner was appointed as a Clerk-cum-Cashier-cum-Godown Keeper at the Indian Overseas Bank on 30.06.1982. In 2013, while working as Shroff/Godown Keeper at the Kothagiri Branch, the petitioner was placed under suspension on 17.06.2013 due to allegations of committing acts of omission and commission prejudicial to the interests of the bank. Disciplinary proceedings were contemplated, and a charge sheet was issued to the petitioner on 30.01.2014 by the Senior Manager, Indian Overseas Bank, Central Office, Chennai, in DO:CDAC:CM(RP):DA:Vig:F-8472:2014-15 4503, dated 30.01.2014. Four charges were framed against the petitioner.

(ii) Alleged Irregularities:

The petitioner, while working as Shroff/Godown Keeper at the Kothagiri Branch, was accused of the following irregularities:

(iii) Misappropriation of Loan Proceeds:

The petitioner misappropriated loan proceeds disbursed to Mrs. P.K. Lakshmi (Rs.8.00 Lakhs), Mr. B. Muthan (Rs.3.00 Lakhs), and Mr. G.R. Krishnan (Rs.2.00 Lakhs), diverting the funds for personal benefits instead of making payments to the borrowers. The petitioner also allegedly demanded and accepted bribes from Mr. B. Muthan (Rs.2.50 Lakhs) and Mr. G.R. Krishnan (Rs.0.59 Lakhs) for facilitating the sanction of credit facilities to them.

(iv) Failure to Obtain Permission for Loans:

The petitioner availed loans in the names of his wife and son from the State Bank of India by extending his personal guarantee, without prior permission from the Bank. Additionally, he failed to disclose his employment when availing the loans or offering his guarantee.

(v) Misappropriation of Bank Funds:

The petitioner misappropriated the bank's funds by failing to account for excess cash found in the cash counter, crediting the excess amount to his Savings Bank account (SB A/C No. 1152/9009) on multiple occasions.

(vi) Disciplinary Proceedings:

- On 17.06.2013, the petitioner was suspended from the Bank's service, and disciplinary proceedings were initiated. The charge sheet was issued on 30.01.2014, citing the petitioner's actions as "Gross Misconduct" under Clause 5(d) and 5(j), and "Minor Misconduct" under Clause 7(d) of the Memorandum of Settlement dated 10.04.2002 between the Bank and its workmen.
- An enquiry was conducted on 28.05.2014, with the petitioner attending the enquiry with his defense representative. The Enquiry Officer submitted the findings on 28.07.2014.
- On 07.10.2014, the Disciplinary Authority granted the petitioner a personal hearing regarding the proposed punishment of dismissal. After considering the case, the Disciplinary Authority concluded that the charges were serious and warranted a

deterrent punishment. Consequently, on 28.10.2014, the Disciplinary Authority imposed the penalty of dismissal under Clause 6(a) of the Memorandum of Settlement.

- The petitioner filed an appeal on 18.12.2014 against the dismissal order. The Appellate Authority conducted a personal hearing on 16.02.2015, reviewed the records, and on 10.03.2015, confirmed the dismissal order passed by the Disciplinary Authority. Consequently, the petitioner has filed the writ petition seeking relief as mentioned above.

3. The learned counsel for the petitioner contended that the Enquiry Officer had submitted various reports, which were relied upon by the second respondent in passing the impugned order. The petitioner further argued that the appeal was rejected without adequately considering the points raised in the appeal. Based on this, the petitioner seeks the setting aside of the order and prays for reinstatement.

4. The learned Standing Counsel for the Bank stated that at the time of the imposition of the punishment, the petitioner was serving as a Shroff/Godown Keeper. Therefore, the petitioner should have approached the Industrial Dispute Court, specifically the Central Government Industrial Tribunal, in accordance with the Industrial Disputes Act, 1947, as per the provisions under Section 27 of the I.D. Act.

5. Given the passage of time, I am not inclined to accept the argument regarding the non-exhausting of an alternate remedy concerning this charge.

6. After hearing both parties and reviewing the records presented before this Court.

7. <u>The points for consideration are as follows</u>:-

(i) Whether the charges have been proved?

(ii) Whether the proved charges are grave in nature?

(iii) Whether the punishment is commensurate with the proved charges?

8. On perusal of the charge sheet relating to acts of commission and omission committed while he was working as a Clerk at the Potheri branch, it is observed that the petitioner is alleged to have committed gross misconduct within the meaning of clauses 5(d), 5(j), and 5(k), as well as minor misconduct under clause 7(d) of the Memorandum of Settlement dated 10.04.2002 between the Bank and the employee. Accordingly, it appears that the above charge sheet was issued. The statement of allegations contains six allegations, and the articles of charge are numbered I to IV.

9. The enquiry report found in the typed set of papers has been perused. It reveals instances of misappropriation in the loan disbursement process, allegedly committed by the petitioner for personal gain. Specifically, loans sanctioned in the name of P.K. Lakshmi to the extent of Rs.8 lakhs and in the name of Mr. Mithun to the extent of Rs.3 lakhs were allegedly not disbursed to the respective borrowers. Instead, the petitioner is accused of misappropriating Rs.2.50 lakhs from the loan sanctioned to Mr. Mithun for personal benefit. Similarly, in respect of a loan sanctioned to G.R. Krishnan for Rs.2 lakhs, the petitioner is alleged to have misappropriated Rs.0.59

lakhs. Furthermore, it is alleged that the petitioner demanded and accepted bribes of Rs.2.50 lakhs from Mr. B. Mithun and Rs.0.59 lakhs from Mr. G.R. Krishnan in exchange for arranging the sanction of credit facilities at the branch.

10. The second set of charges pertains to the petitioner having availed a loan in the name of his wife and son from the State Bank, without obtaining prior permission from the respondent Bank. He also stood as a personal guarantor for the said loan without prior approval, thereby violating the Bank's guidelines. Additionally, the petitioner failed to disclose the said loan to the respondent Bank and suppressed the fact of his present employment in the loan application submitted to the State Bank. Further charges are detailed in the documents on record.

11. On perusal of the enquiry report, it is noted that Mr. T.S. Nageswaran, Senior Manager, was initially appointed as the disciplinary authority to initiate action against the petitioner. However, due to administrative reasons arising from his retirement, he was replaced by

Mr. R. Prasad, Chief Manager, who is also competent to conduct disciplinary proceedings against an employee of the petitioner's rank. The charge sheet was issued by Mr. R. Prasad in his official capacity as the disciplinary authority. I find no illegality in this regard. Furthermore, the change in disciplinary authority was duly communicated to the petitioner, which assumes significance in affirming procedural fairness.

12. From the enquiry report, it is evident that the testimony of the borrower substantiated and supported the charges. In this context, both the disciplinary authority and the appellate authority have dealt with the matter in detail and arrived at the conclusion that the charges were duly proved in the domestic enquiry. The disciplinary authority, by order dated 28.10.2015, specifically found that one P.K. Lakshmi was not eligible to avail of the loan amounting to Rs.8 lakhs. In order to render her eligible, the petitioner prematurely closed her existing agreed case under the Green Card loan scheme, as detailed in the enquiry, and transferred the amount to her new loan account to create the appearance of eligibility for the Rs.8 lakhs loan, which was then disbursed.

13. However, during the enquiry proceedings initiated for recovery, P.K. Lakshmi stated that the funds were never released to her, and that the entire loan amount was misappropriated by the petitioner for his personal benefit. Detailed records of the remittance and supporting statements are available in the enquiry officer's report.

14. It is a specific stand of the said P.K. Lakshmi that she appeared as a witness in the inquiry, deposed, and stood by her complaint against the petitioner.

15. Based on the bank records, the inquiry officer has rightly concluded that the charges are proved. When the inquiry officer initiated the proceedings, the misappropriation made by the petitioner appeared to come to light, leading to the inquiry.

16(a). In the departmental inquiry, she deposed that the accounts were misappropriated by the petitioner, and there was no effective crossexamination to discredit her evidence. Additionally, other loan amounts were also brought to light, and the charges were proved.

(b) Accordingly, the disciplinary authority found that in the domestic inquiry, it was established that the petitioner had embezzled funds to the tune of Rs. 50,000/- belonging to a customer for the petitioner's undue personal gain. The relevant charges were proven, and the petitioner failed to disclose his current employment with the bank to the State Bank while availing the loan. Furthermore, the petitioner acted as a guarantor, and there was no repayment of the loan, which resulted in recovery proceedings by the State Bank of India. It was only then that it came to light that the petitioner was employed at this bank.

(c) Additionally, various amounts mentioned in the articles of charges had been misappropriated by the petitioner. A personal hearing was also given on 07.10.2024. Since the petitioner did not present any new facts or evidence to refute the proven charges, the disciplinary authority concurred with the findings of the inquiry officer and proposed the punishment of dismissal without notice. After following the due procedure, the petitioner was removed from service .

17. After perusing the order passed by the appellate authority, I find that all the points raised by the petitioner in the grounds of appeal have been independently considered and rejected.

18. It remains to be stated that in matters of judicial review against the departmental order of punishment imposed by the disciplinary authority, the Court must consider whether: **(i)** the rules of natural justice have been complied with; **(ii)** the finding of misconduct is based on evidence; **(iii)** the statutory rules governing the conduct of the disciplinary inquiry were followed; **(iv)** the findings of the disciplinary authority suffer from perversity; and **(v)** the penalty is disproportionate to the proved misconduct.

19. In the instant case, I find that the inquiry officer has duly considered and followed the rules of natural justice, and the finding of misconduct is based on the bank records. All the statutory rules governing the disciplinary inquiry have been duly complied with. I do not find any perversity in the findings of the disciplinary authority, and the penalty imposed is not disproportionate to the proved charges. Hence, I find no merit in this writ petition.

20. Accordingly, this Writ petition is dismissed. No costs. Consequently, the connected W.M.P is closed.

02.06.2025

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Index : Yes / No
Neutral Citation : Yes/No

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