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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11400/2019

SATISH KUMAR KHANNA .....Petitioner
Through: Mr. Manish Makhija and Ms. Simran Makhija, Advocates.

versus

ORIENTAL BANK OF COMMERCE .....Respondent
Through: Mr. Rajat Arora and Mr. Sourabh Mahla, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>O R D E R</u>
% 19.05.2025

1. The petition was scheduled to be listed on 22.07.2025, but has been listed today on an Office Note as it has been identified by the Registry as a "*Targeted Matter*" under the "*Model Action Plan for Reduction of Arrears in High Courts*".

2. With the consent of learned counsel for the parties, the writ petition has been taken up for hearing.

3. The challenge in this petition is to an order of termination dated 16.09.2003, passed by the respondent - Oriental Bank of Commerce ["Bank"], against the petitioner. The petitioner also seeks directions for the release of unpaid salary, gratuity, employer's contribution to Provident Fund ["PF"], leave encashment, pension, medical benefits, etc.

4. Mr. Rajat Arora, learned counsel for the Bank, states, at the outset, that the respondent – Bank has merged with the Punjab National Bank

[“PNB”] with effect from 01.04.2020. He also states that all assets and liabilities of the Oriental Bank of Commerce have been transferred to PNB, and PNB will abide by the directions of this Court in the present case.

5. The petitioner was working as a Deputy General Manager of the respondent – Bank. The impugned termination order was passed on 16.09.2003, as a result of disciplinary proceedings instituted against him by way of chargesheets dated 27.03.2002 [read with corrigendum dated 11.12.2002], 04.05.2002, 17.12.2002, and 29.07.2003. Broadly speaking, each chargesheet related to allegations, with regard to transactions between the Bank and different customers. Several of the charges were found to have been proved by the Inquiry Officer, and the Disciplinary Authority concurred with those findings. He, therefore, imposed the punishment of dismissal upon the petitioner.

6. The disciplinary order was given effect to, and the petitioner also did not prefer any proceedings against the order for a period of approximately 16 years. This writ petition was filed only in October 2019.

7. The principal submission of Mr. Manish Makhija, learned counsel for the petitioner, is that the order was challenged belatedly due to the fact that criminal proceedings against him on the same charges culminated in an order of acquittal dated 31.05.2018. A copy of the judgment in the criminal proceedings has been placed on record. The petitioner arrayed as A-4 in the criminal proceedings. Mr. Makhija specifically draws my attention to paragraphs 232 and 233 of the judgment of the learned Trial Court, which read as follows:

*"232**. It is astonishing to note that IO despite having come to the conclusion regarding 'no misuse' of power or breach or non following of the procedure by accused bank officers, yet decided to file the charge sheet against them. Apparently this seems to be a case where IO had exceeded his discretion and jurisdiction and himself seems to be in violation of the mandate of law, whereby the innocent people have been booked for no fault of theirs. It turns out to be a case of sheer abuse of process of law reflecting traversity of justice.** The novelist Graham Greene depicted innocence as a dumb leper who has lost his bell, wandering the world. The sooner society can recognize and deal with the menace of wrong accusation carrying no warning bell, the better for us all. Consequences of wrong accusation can be severe and ·devastating upon the accused. Even the accusation that something illegal has been done can be enough to dramatically change how the community treats such persons and even if the criminal charges are ultimately dropped, there can still be lingering doubt or misconceptions about the accused affecting their reputation.*

*233. Though Ld. Prosecutor tried hard to convince the court regarding the accusation against the accused persons but **the prosecution witnesses themselves nailed the entire case of prosecution. It is also brought on record that due to the allegations, worst affected person is A-4 who had been removed from his job and has been deprived of all the pensionary and other regular benefits, therefore must get back at least the lost reputation and the financial benefits, though he cannot be compensated for the precious years of his life which have been lost due to pendency of the case.** Not only A-3, A-4 and A-5 have suffered the prolonged trial but also have been forced to bear the social stigma, legal expenses and the mental and physical harassment for no fault of theirs and therefore are hereby permitted the liberty to seek damages for their unwarranted prosecution."*

8. Mr. Makhija relied upon the judgments of the Supreme Court in *Capt. Paul Anthony v. Bharat Gold Mines Ltd.* [(1999) 3 SCC 679] and *G.M. Tank v. State of Gujarat* [(2006) 5 SCC 446], to argue that the disciplinary order cannot stand after the acquittal, as it flows out of the very same transaction, and similar charges and evidence were led before the Trial Court.

9. Mr. Makhija and Mr. Arora draw my attention to a communication of the petitioner dated 18.01.2019, in which the status of the petitioner's

dues has been enumerated. It is common ground that the petitioner's contribution to PF has already been remitted to him. However, the employer's contribution remains unpaid. His gratuity, leave encashment, and medical reimbursement have been withheld on account of the termination order. Although reference has been made to the petitioner's entitlement to pension also, Mr. Arora points out that PF and pension can be claimed only in the alternative, and Mr. Makhija clarifies that the petitioner would be satisfied with the release of the remaining amount in his PF account.

10. The only additional submission is that the petitioner has been deprived of some amount of his salary for the period prior to the termination order.

11. In these circumstances, and particularly having regard to the judgments of the Supreme Court in *G.M. Tank* [*supra*] and *Capt. Paul Anthony* [*supra*], I am of the view that the appropriate course is for the respondent to reconsider the matter. The Bank may particularly consider whether the disciplinary proceedings and the criminal charges against the petitioner, in fact, arise out of the same transaction and the same evidence. The observations of the learned Trial Court quoted above must also be taken into account.

12. In the event the Bank comes to the conclusion that the two proceedings were indeed aligned in this way, the Bank will pass necessary orders, with regard to the balance amount of the petitioner's PF dues, gratuity, leave encashment, and medical reimbursements. If any salary/subsistence allowance remains unpaid for the period prior to the termination order, that will also be considered by the Bank.

13. It is made clear that Mr. Makhija has limited the relief sought to these aspects. The question of reinstatement of the petitioner at this stage, in any event, does not arise.

14. The Bank will consider the present writ petition as a representation on these aspects and take a reasoned decision within a period of eight weeks from today. If it requires any further documents or clarifications from the petitioner, it will communicate the same to the petitioner and to Mr. Makhija within four weeks from today, which will be provided forthwith.

15. The writ petition is accordingly disposed of.

PRATEEK JALAN, J

MAY 19, 2025
SS/JM/