

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 1551 OF 2024 (S-DE)



BETWEEN:

1. STATE BANK OF INDIA
THE MANAGING DIRECTOR
LOCAL HEAD OFFICE
KEMPEGOWDA ROAD
BENGALURU - 560 009
REPRESENTED BY
ASST GENERAL MANAGER.

...APPELLANT

(BY SRI T.P. MUTHANNA, ADVOCATE)

AND:

1. SRI NANJUNDAPPA
S/O UNTHURIAH
AGED ABOUT 55 YEARS
DEPUTY MANAGER (RETIRED)
STATE BANK OF MYSORE
R/AT NO.23/1
1ST FLOOR, 1ST CROSS
RRMR EXTENSION
K.H. ROAD
BENGALURU - 560 027.

...RESPONDENT

(BY MS. SUVARNA LAKSHMI M.L., ADVOCATE)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 08.08.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WRIT PETITION No.36835/2014 & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

CAV JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the application, I.A.No.1/2024, the same is allowed. The delay of six days in filing the appeal is condoned.

2. The State Bank of India [**the Bank**], has filed the present appeal, impugning an order dated 08.08.2024 [**impugned order**] passed by the learned Single Judge of this Court in Writ Petition No.36835/2014 (S-DE) captioned '*Nanjundappa v. State Bank of India*'.

3. The respondent had filed the said writ petition, impugning an order dated 29.10.2010 passed by the Disciplinary Authority,

whereby his services from the Bank were terminated. The respondent also impugned an order dated 13.04.2011, whereby his appeal against the dismissal order passed by the Disciplinary Authority, was rejected.

4. The learned Single Judge had found merit in the challenge laid by the respondent to the afore-mentioned orders. Accordingly, the court had set aside the same with liberty to the Bank to conduct a fresh enquiry. The impugned order is founded on the conclusion that the enquiry conducted in respect of the charges framed against the respondent, was in violation of the principles of natural justice. This conclusion is in turn based on the finding that the respondent was not afforded sufficient opportunity to be represented by a Defence Representative or an Advocate. In addition, the learned Single Judge had also concluded – on the assumption that a copy of the enquiry report had not been furnished to the respondent – that he had no opportunity to respond to the findings of the Enquiry Officer. The learned Single Judge faulted the Disciplinary Authority in proceeding to pass the dismissal order, without issuing a second show cause notice and affording the respondent an opportunity to respond to the finding of the Enquiry Officer.

5. The Bank impugns the conclusions of the learned Single Judge and disputes that the disciplinary proceedings were conducted in violation of principles of natural justice.

PREFATORY FACTS

6. The respondent was employed with the erstwhile State Bank of Mysore, which has since merged with the State Bank of India with effect from 01.04.2017. The respondent had joined the services of the State Bank of Mysore as a Cashier-cum-clerk with effect from 24.03.1981. During the course of his employment, he was promoted from time to time. The respondent was functioning as a Deputy Manager (Advances), at Wilson Garden Branch of the Bank during the period 07.06.2004 to 12.07.2004 and at Chamarajapet Branch during the period 18.07.2007 to 26.04.2008. It is alleged that during the said period, he committed serious irregularities including unauthorised debits / withdrawals from various accounts.

7. In view of the allegations leveled against the respondent, he was placed under suspension by an order dated 26.04.2008. The Bank had also filed an FIR with Wilson Garden Police Station, Bengaluru. Thereafter, on 28.04.2009, the Bank served a charge-sheet dated 18.02.2009 to the respondent. The respondent

submitted his response to the charge-sheet on 01.06.2009, denying the said charges. Thereafter on 12.06.2009, an additional charge-sheet was furnished to the respondent and by a letter dated 17.07.2009, he denied the additional charges. In view of the above, the Bank instituted an enquiry in respect of the charges and appointed an Enquiry Officer. The Enquiry Officer issued a letter dated 05.12.2009 informing the respondent that he has been appointed as the Enquiry Officer in respect of the charge-sheet and also served him a notice that a preliminary hearing would be held on 17.12.2009. The respondent was also informed that he was permitted to avail the services of a defence representative in terms of Regulation 68(2)(VII) of the State Bank of Mysore Officers' Service Regulations, 1979 [**'the Regulations'**].

8. The respondent did not attend the enquiry proceedings that were held on 17.12.2009. Accordingly, the proceedings were adjourned to 26.12.2009. The respondent was advised that if he failed to appear on the next date of hearing, the enquiry would be conducted exparte. The respondent did not attend the enquiry proceedings held on 26.12.2009 as well. Since the registered post cover was received back, the Enquiry Officer decided to further

adjourn the proceedings to 13.01.2010 notwithstanding that the same was in open condition.

9. The enquiry proceedings were held on 25.01.2010. The respondent participated in the said proceedings and confirmed that he had understood the charges levelled against him. He however, requested for some time to nominate a defence representative. He stated that he had approached the SBM Officers' Association for securing a defence representative. At his request, further proceedings were adjourned to 09.02.2010. Regular enquiry proceedings were held on 09.02.2010. The Presenting Officer examined the three witnesses on behalf of the Management and the proceedings were adjourned at the request of the respondent.

10. The enquiry proceedings were held during the period 09.02.2010 to 15.03.2010. The respondent made a request that he be permitted to engage an Advocate to defend his case. However, the same was denied. After conclusion of the proceedings, the Presenting Officer submitted a written brief to the Enquiry Officer on 17.03.2010. The Enquiry Officer forwarded the same to the respondent under cover of a letter dated 01.04.2010, advising the respondent to submit his written brief as well. The respondent did

not furnish the written brief. Accordingly, the Enquiry Officer submitted his report on 20.07.2010.

11. The Bank claims that the Disciplinary Authority forwarded the same to the respondent on 26.07.2010 for providing an opportunity to respond to the same. However, the respondent failed to furnish his response to the findings of the enquiry proceedings. Thereafter on 29.10.2010, the Disciplinary Authority passed an order imposing a punishment of dismissal from service, in terms of Regulation 67(j) of the Regulations. It was further directed that the period of suspension would be treated as "off-duty". The respondent appealed the dismissal order by filing an appeal before the Managing Director of the Bank (Appellate Authority). However, the same was rejected by an order dated 13.04.2011. The dismissal order as well as the order dated 13.04.2011 were challenged by the respondent in the writ petition, which was allowed by the impugned order.

REASONS AND CONCLUSIONS

12. The learned Single Judge has allowed the writ petition on, essentially, two grounds. First, that the enquiry proceedings were vitiated as the respondent was denied the opportunity of engaging

the assistance of a defence representative or an Advocate. The learned Single Judge held that since allegations made against the respondent were grave, he ought to have been provided a suitable Officer to defend him at the enquiry.

13. Second, the Disciplinary Authority had proceeded to pass a dismissal order without issuing any show cause notice calling upon the respondent to respond to the Enquiry Officer. The learned Single Judge had held that the same would also violate the principles of natural justice.

14. We are unable to concur with the view of the learned Single Judge that the principles of natural justice have been violated, in the facts and circumstances of the case. Regulation 68(2)(VII) of the Regulations, entitles a charged Officer to avail the benefit of assistance from another Officer. The said Regulation 68(2)(VII) – which is also noted by the learned Single Judge in the impugned order – reads as under:

" The officer may take the assistance of an officer as defined in clause (j) of Regulation 3 (hereinafter referred to as Officer's Representative), but shall not engage a legal practitioner for the purpose. Provided that where the Presenting Officer is a public servant other than an officer of the Bank, the officer may take the assistance of any public servant."

15. As is apparent from the plain language of Regulation 68(2)(VII), a charged Officer may take the assistance of another Officer as his representative. However, he is not entitled to engage a Legal Practitioner for the said purpose. The Bank does not dispute that in terms of the said Regulations, the respondent was entitled to avail the assistance of another Officer for his defence in the enquiry proceedings. The records indicate that sufficient opportunity was granted to the respondent to engage another Officer as a defence representative. The notice dated 05.12.2009 issued by the Enquiry Officer informing the respondent regarding the preliminary hearing to be held on 17.12.2009, clearly stated that the respondent was permitted to avail the services of a defence representative in terms of Regulation 68(2)(VII) of the Regulations. The respondent was further called upon to notify the name and designation of the proposed representative in advance of the preliminary hearing. Thus, there was no impediment for the respondent to seek the assistance of another Officer in defending the enquiry proceedings. However, the respondent neither responded to the notice dated 05.12.2009 nor appeared at the preliminary hearing held on 26.12.2009. Although the Enquiry Officer could have proceeded further on 12.09.2009, he considered it apposite to defer the

hearing, in order to give the respondent yet another opportunity to join the proceedings. The enquiry proceedings were then adjourned to 13.01.2010. The enquiry proceedings were held on 25.01.2010. On this date, the respondent participated in the proceedings and requested for further time to nominate his defence representative. He stated that he had also approached the SBM Officers' Association for securing a defence representative. At the request of the respondent, the enquiry proceedings were adjourned to 09.02.2010. Clearly, the respondent cannot make any grievance of not being afforded an opportunity to engage a defence representative.

16. It is contended on behalf of the respondent that SBM Officers' Association, did not nominate a defence representative and therefore, the respondent was deprived of the assistance in defending the enquiry proceedings.

17. We do not find any substance in this contention, as there was no restriction for the respondent to avail the services only from an officer nominated by SBM Officers' Association. The respondent was at liberty to persuade any officer of the Bank to lend assistance in defending the enquiry proceedings. There is no material on

record that the respondent had approached other officers or his colleagues to lend their assistance in his defence but they had declined. The respondent's claim that he was denied the assistance of a Defence Representative, is premised on the basis that the SBM Officers' Association had not provided him a defence representative. It is not the respondent's case that the SBM Officers' Association was obliged to provide him with the services of a defence representative. As noted above, the Regulations also do not impose any restriction that the defence representative must be one that is nominated by the Officers' Association.

18. In the aforesaid circumstances, we are unable to accept that the principles of natural justice have been violated on the ground that the respondent has been denied the assistance of a defence representative. On the contrary, the record indicates that the proceedings had been adjourned at the request of the respondent, to enable him to engage a defence representative. The respondent had sought permission for appointment of an Advocate. However, the same was denied, as it was contrary to the Regulations. Further, the allegations were fairly straight forward and fact based. The learned counsel appearing for the respondent also did not dispute that the Enquiry Officer was well within his powers to decline the

request for engagement of an Advocate as the same was impermissible under the Regulations.

19. The principles of natural justice require that a fair opportunity of hearing ought to be granted to the person against whom any adverse action is proposed. This is to enable the said person to put forth his response as why the same should not be taken and address the allegations. In the present case, full opportunity was granted to the respondent to defend the enquiry proceedings.

20. The conclusion that the principles of natural justice were violated as a second show cause notice was not issued to the respondent to enable him to respond to the report of the Enquiry Officer, is unsustainable. The assumption that the enquiry report was not been furnished to the respondent and he had not been provided an opportunity to respond to the findings, is factually erroneous. First of all, there is no averment in the writ petition to the aforesaid effect. On the contrary, it is expressly stated in the writ petition that the Disciplinary Authority had *“by his communication dated 04.08.2010, furnished the report of the Inquiry Officer to the petitioner seeking his reply to the findings of the Inquiry Officer.”*

21. It is also stated that the respondent had made a representation dated 16.08.2010 reiterating his request to re-open the enquiry proceedings. Thus, the respondent had full opportunity to respond to the findings of the Enquiry Officer, but had not furnished any response on the ground that unless the enquiry proceedings were re-opened, he would not be in a position to take place his defence.

22. It is clear from the record that the principles of natural justice had been duly complied with and the respondent was given full opportunity to defend the allegations levelled against him. We say so, on the basis of the following facts that are clear from the record:

- i. That Articles of charges were duly served on the respondent and he was granted an opportunity to respond to the same;
- ii. That the Enquiry Officer had issued a notice expressly informing the respondent that he was entitled to engage the services of a defence representative and requesting him to inform the name of such Officer, in the event the respondent wishes to engage one;

iii. The enquiry proceedings were adjourned on two occasions, as the respondent had not joined the proceedings. Thereafter the enquiry proceedings were adjourned once again at the request of the respondent to *inter alia* engage the assistance of a defence representative;

iv. That the respondent was given an opportunity to produce material in evidence in defence and also to cross-examine the witnesses examined on behalf of the Bank. However, the respondent had not produced any material in his defence nor examined any witness. He did not avail of the opportunity to cross-examine the witnesses examined by the Bank;

v. The respondent was furnished the brief submitted by the Presenting Officer and he was also granted an opportunity to furnish a brief of his defence. However, the respondent had not submitted any response.

vi. The enquiry report was furnished to the respondent and he was also called upon to furnish his reply, by the Disciplinary Authority. However, the respondent did not submit any response on the merits of the finding;

vii. The respondent had also availed the opportunity of filing an appeal against the dismissal order, which was duly considered by the Appellate Authority.

23. In view of the above, the impugned order is set aside. The appeal is allowed in the aforesaid terms.

24. Pending applications also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

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