**(1993) 09 MAD CK 0056**

**In the Madras High Court**

Indian Overseas Bank APPELLANT

Vs

R. Sathyamurthi RESPONDENT

**Date of Decision :** 07-09-1993

**Acts Referred:**
Constitution of India, 1950 — Article 226

**Citation :** (1994) 1 LW 106 : (1994) 1 MLJ 115 : (1994) WritLR 200 : (1994) WritLR 108

**Hon'ble Judges :** K.A. Swami, C.J;Somasundaram, J

**Bench :** Division Bench

# Judgement

K.A. Swami, C.J.—This writ appeal is preferred against the order dated 19.3.1992 passed by the learned single Judge in W. P. No. 2273

of 1984. In the writ petition, the respondent herein sought for quashing the order in Ref. No. DO : GM; 664, dated 3.12.1975 issued by the

General Manager of the appellant/Bank, terminating the services of the respondent. Learned single Judge has allowed the writ petition on the

ground that the order passed by the appellate authority is not a speaking order, and consequently has directed the appellate authority to reconsider

the appeal afresh. Hence, the Bank has come up in appeal.

2. We have been taken through the proceedings of the Board which are found in pages 82 to 85 of the typed set and also the findings of the

enquiring authority which are found in pages 56 to 64 of the typed set. From the order of the learned single Judge it is apparent that the

proceedings of the Board have not been looked into. What has been taken into consideration is only the communication sent to the respondent

informing him that his services are terminated. That communication has been issued pursuant to the decision of the Board incorporated in the proceedings of the Board. We are of the view that instead of stating as to what is contained in the proceedings of the Board, it is appropriate to

reproduce the same, which is as follows :

Memorandum to the Board

(For Information)

Central Office :

Head of subject : Staff - Supervising Nature of subject : Shri R. Satyamoorthy, Shri R. Satyamoorthy, an officer of our Bank was dismissed by us

on 27.8.1975 for committing breach of the Rules of the Bank and for doing acts detrimental to its interest while he was working as Manager of

Swamiarmadam Branch. Against the order of dismissal, he has now preferred an appeal to the Board of Directors under Rule 36 of the Rules

governing the service of officers.

Brief Summary of the case : Shri R. Satyamoorthy was charge-sheeted for committing breach of the rules of the Bank and for displaying

negligence, inefficiency and indifference and for knowingly acting to the detriment of the Bank''s interest under the following circumstances :

He passed unauthorised debits in suspense account as advance towards LFC and utilised such amounts for his monetary needs, without

undertaking any journey. He failed to refund a sum of Rs. 125.51 drawn by him from the Bank in excess of the T. A. bill sanctioned to him as early

as on 15.9.1971.

He misappropriated a sum of Rs. 100 being the provision made for electricity charges and held in the branch sundry creditors account on

29.12.1973.

He had failed to check the branch Despatch Register as a result of which a sum of Rs. 110.45 was found to have been debited to charges account

(postages) in excess of the actual postages incurred.

He granted personal loans to some members of the staff and public, but did not ensure that they actually purchased the articles for which the loans

were granted. He allowed members of staff to draw medical aid expenses in excess of their entitlements.

According to the findings of the enquiry officer, the irregularities committed by the member are serious in that he abused his powers as Manager of the Branch and displayed negligence and inefficiency and knowingly acted in a manner detrimental to the interests of the Bank. On the basis of the

findings of the enquiry officer, Shri R. Satyamoorthy was dismissed from service with effect from 27.8.1975. Aggrieved by this dismissal order, he

has preferred this appeal from consideration of the Board of Directors.

The members in his appeal has stated that he had not done anything which was resulted in a loss to the Bank and that he was not given access to

the books and files during the enquiry. He also contends that the recording of the proceedings of the enquiry has led to distortion of facts and the

omissions and misleading comments have resulted in wrong conclusions.

There is nothing on record to show that the member made a request to the enquiry officer, to allow him to have access to the books and files

during the enquiry. The very fact that Shri R. Satyamoorthy has certified in the enquiry proceedings that the recordings were made in his presence

and that it is a true and complete record of the proceedings and that every opportunity has been given to him to defend himself, goes to prove that

his above contentions are baseless.

He contends that due to deferment of his transfer he could not proceed on LFC and foreseeing that he would not be able to complete the journey

in accordance with the rules, he refunded the advance of Rs. 750 on 19.2.1974, availed of earlier. But in the enquiry he has admitted that he

debited suspense account with Rs. 700/- on 30.1.1974 as advance for LFC to respond to a debit made by Chinnasalem Branch on account of his

R. D. account. He has also admitted that he reversed this entry on 19.2.1974 when the amount was received from Chinnasalem Branch. He has

expressed his regret for passing such unauthorised transaction in suspense account. He also admitted that he did not refund the sum of Rs. 121.51

due by him to the Bank in respect of his T. A. bill sanctioned for a reduced amount.

He contends that there was no need for him to misappropriate the amount of Rs. 100/- debited to sundry creditors account on 18.1.1974. In the

enquiry though he denied having received the amount himself, he could not explain how the amount was disposed of and why it was not credited to

charges account. His contention that the relative voucher was not passed for payment, did not bear the pay cash stamp, Manager''s signature or recipient''s signature on the back of the voucher do not hold good since he has entered the same in the scroll as the last item for the day and has

also admitted at the enquiry that voucher was omitted to be passed by oversight.

His contention that he should be exonerated from the charge that he granted loans to members of the staff and public although they did not actually

purchased the articles for which the loans were granted cannot be accepted since he himself admitted at the enquiry that he granted loans on the

request of the members to meet their urgent/medical aid needs.

The punishment meted out to him is mainly for passing unauthorised debits in suspense account, misappropriating a sum of Rs. 100/- negligence in

checking the despatch registers resulting in excess debits to charge (postages), granting personal loans to staff and the public although they did not

purchase the articles, allowing members of staff to draw medical aid expenses in excess of their entitlements. It has been clearly established in the

enquiry that he abused his powers as Manager of the branch, committed breach of the rules of the Bank and displayed negligence, inefficiency and

indifference and knowingly acted to the detriment of the Bank''s interest.

As Manage of the branch, it was highly irregular on his part to have committed the above acts with dishonest intentions for which the punishment of

dismissal cannot be said to be unjustified.

The following matters relating to Shri R. Satyamoorthy''s case leading to his dismissal are attached for consideration of the Board of Directors :

1. Enquiry Officer''s finding dated 10.4.1975 (including charge-sheet).

2. Show-cause notice dated 30.4.1975.

3. Shri R. Satyamoorthy''s reply dated 31.5.1975.

4. Dismissal order dated 27.8.1975.

5. Shri R. Satyamoorthy''s appeal dated 4.10.1975.

Sd/- S.V.S. 22/11

GENERAL

Sd/- K.R.

CHIEF OFFICER

MANAGER

INSPECTION

Disposal by the Board He may be treated as having been terminated instead of dismissal.

Sd/

GENERAL MANAGER"".

It is thus clear that the Board has gone into all the charges and the findings recorded by the enquiry officer and thereafter it has decided to treat the

punishment of dismissal imposed by the disciplinary authority into one of termination. The entire proceedings that was placed before the Board

would become part of the decision of the Board. As already pointed out, what was communicated to the respondent was only the ultimate

decision. The reasons are contained in the proceedings which have been reproduced above. That being so, it is not possible to agree with the

learned single Judge that the order of the Board is not a speaking order. In addition to this, this is a case in which the disciplinary authority

recorded findings on each one of the charges on the basis of the findings recorded by the enquiry authority. Sufficient reasons are contained in the

order of the enquiring authority. Therefore, it was not necessary for the appellate authority to go into the matter in detail and detail reasons, if such

reasons are available in the original order. However, as already pointed out, the Board has gone into the matter in detail. In a case where the

reasons are contained in the findings recorded by the enquiry officer and even if the appellate authority does not go into them in detail, the order

may not be vitiated as held by the Supreme Court in S.N. Mukherjee Vs. Union of India, . Under these circumstances, we are of the view that the

order of the Board did not suffer from any infirmity. Therefore, we see no justification to quash the same. In view of the conclusion we have

reached, it is not necessary to consider the contention urged by Mr. N. G. R. Prasad that the petitioner/respondent was guilty of laches and as

such he was not entitled to any relief in a petition under Art. 226 of the Constitution of India.

3. For the reasons stated above, the writ appeal is allowed. The order passed in W. P. No. 2273 of 1984 dated 19.3.1992 is set aside and the

said writ petition is dismissed. However, in the facts and circumstances of the case, there will be no order as to costs.