IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4124 OF 2024

Shri. Laxman Krishna Kesare **...Petitioner**

V/s.

Mumbai District Central Co-operative Bank Ltd. and Another **...Respondents**

Mr. Balasaheb Yewale with Ms. Aarti Mallah for the Petitioner.

Ms. Komal Deshmukh for the Respondents.

CORAM: SANDEEP V. MARNE, J.

Reserved On: 31 July 2026.

Pronounced On: 11 August 2026.

JUDGMENT :

1) By this petition, Petitioner has challenged judgment and order dated 3 February 2024 passed by the Industrial Court, Mumbai dismissing Revision Application (ULP) No. 64 of 2022 and confirming the judgment and order dated 24 August 2022 passed by the Labour Court, Mumbai. The Labour Court has dismissed Complaint (ULP) No. 173 of

2018 filed by the Petitioner alongwith the Union challenging the order of dismissal from service dated 11 September 2018.

2) Respondent No.1 is a Cooperative Bank registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 and is engaged in the business of banking. Respondent No.2 is the Chief Executive Officer of the Bank. The Bank is also an undertaking within the meaning of Section 3(37) read with Section 11 of the Maharashtra Industrial Relations Act,1946. The Petitioner was employed with Respondent No.1-Bank in the year 1991. In the year 2014, he was posted at Lalbaug Branch of the Bank as Junior Officer. He was issued chargesheet dated 27/28 October 2014 alleging that the borrower-Royal Co-operative Credit Society Ltd. was granted credit facilities of Rs.126 lakhs on the basis of inspection report issued by the Petitioner. That the said borrower had defaulted in paying installments in respect of the previous loans which aspect was not indicated by the Petitioner in his inspection report. Accordingly, it was alleged that on account of the conduct of the Petitioner, the Bank suffered losses. An enquiry was held into the chargesheet. The enquiry commenced on 10 November 2014 and was concluded on 13 October 2015. In his report, the Enquiry Officer held that the charge levelled against the Petitioner was proved. The Board of Directors accepted the report of the Enquiry Officer and adopted Resolution dated 2 May 2016 dismissing the Petitioner from service. By order dated 9 May 2016, Petitioner was dismissed from service w.e.f. 10 May 2016.

3) The Petitioner made a representation through the Union against the punishment order. The Board of Directors showed leniency and adopted a resolution imposing the punishment of reversion on the Petitioner. Accordingly, by order dated 25 May 2016, Petitioner was reverted from the position of Junior Officer to the position of Bank Assistant retrospectively from 10 May 2016. However, the Bank thereafter felt that Petitioner did not take steps for recovery of outstanding loan from the Borrower-credit society and accordingly the Board of the Bank reconsidered/reviewed its earlier decision and adopted Resolution dated 31 July 2018 for dismissal of the Petitioner from service by holding him responsible for arrears of loan of Rs.201.89 lakhs. A decision was taken to forfeit all dues payable to the Petitioner. Accordingly, by order dated 11 September 2018, the Managing Director of the Bank dismissed the Petitioner from service w.e.f. 11 September 2018.

4) Petitioner approached the Labour Court, Mumbai and filed Complaint (ULP) No. 173 of 2016 alongwith his Union challenging the dismissal order dated 11 September 2018. The Complaint was resisted by the Respondent-Bank by filing Written Statement. The Labour Court framed preliminary issues relating to fairness in the enquiry and perversity in the findings of the report of the Enquiry Officer. By order dated 18 November 2019, both the issues were decided against the Petitioner holding that the enquiry was fair and proper and that the findings of the Enquiry Officer are not perverse. The Labour Court thereafter took up the remaining issues and by final judgment and order dated 24 August 2022, the Labour Court proceeded to dismiss the Complaint. Petitioner preferred Revision Application (ULP) No. 64 of

2022 before the Industrial Court, Mumbai. However, by judgment and order dated 3 February 2024, the Industrial Court has dismissed the Revision preferred by the Petitioner. Accordingly, the Petitioner has filed the present petition challenging the order on preliminary issues dated 18 November 2019, final order dated 24 August 2022, both passed by the Labour Court, as well as judgment and order dated 3 February 2024 passed by the Industrial Court.

5) Mr. Yevale, the learned counsel appearing for the Petitioner submits that the Labour and Industrial Courts have grossly erred in dismissing the Complaint of the Petitioner. He submits that the charge is erroneously held to be proved against the Petitioner. That the Petitioner had clearly highlighted default in payment of installments by the borrower-credit society and had recommended sanction of loan only after recovery of the due installments. That in any case, Petitioner is not the sanctioning authority and has not sanctioned the loan. That the decision to sanction the loan is ultimately taken by the senior management of the Bank.

6) Mr. Yevale further submits that the Petitioner is punished twice for the same misconduct. The punishment of reversion had already been imposed upon him, and with the imposition of that punishment, the disciplinary proceedings had come to an end. The Petitioner was dismissed from service for the same misconduct. Thus, two punishments have been imposed upon the Petitioner for the very same misconduct. That ignoring this position, the Labour and Industrial Courts have erroneously dismissed the complaint filed by the Petitioner. He therefore prays for setting aside of the impugned orders passed by the Labour and Industrial Courts.

7) Per-contra, Ms. Deshmukh, the learned counsel appearing for the Respondent opposes the petition submitting that the Petitioner has committed grave misconduct by misappropriating the funds of the Bank. That his erroneous inspection report resulted in sanction of undue credit facilities to the borrower. The Petitioner's inspection report formed the basis for the disbursement of the loan, which resulted in financial loss to the Respondent-Bank. She further submits that reinstatement of the Petitioner was only for the purpose of recovery of loan amount from the credit society. That since Petitioner admittedly failed to recover the loan amount, he has rightly been dismissed from service. She submits that there are concurrent findings recorded by the Labour and Industrial Courts on merits of the case. That both the Courts have concurrently held that imposition of punishment of dismissal does not amount to double jeopardy. That therefore there is no warrant for interference in such concurrent findings by this Court in exercise of extraordinary jurisdiction under Article 227 of the Constitution of India. Lastly, Ms. Deshmukh submits that the bank has suffered huge financial loss due to the actions of the Petitioner and that therefore the orders passed by the Labour and Industrial Courts need not be interfered with. She prays for dismissal of the Petition.

8) Rival contentions urged on behalf of the parties now fall for my consideration.

9) Disciplinary proceedings were initiated against the Petitioner by issuance of chargesheet dated 27/28 October 2014. It must be observed at the very outset that plain reading of the chargesheet does not disclose the precise misconduct alleged against the Petitioner. The chargesheet begins with a statement that the explanation submitted by the Petitioner in response to the Bank's allegations was not found to be genuine and that the same was rejected by the Bank. It was alleged that Petitioner had created false and fabricated picture in his explanation. It was alleged that as per the applicable Rules and Regulations, Petitioner was supposed to examine the proposal submitted by Royal Co-operative Credit Society Ltd. and that the Vigilance Department indicated in its report that Petitioner's examination report led to sanction of term loan of Rs.126 lakhs to the said credit society. It was further alleged that the society was granted relaxation from payment of 3 EMIs from May to July alongwith EMIs of October, November and December. However, the said EMIs were not paid to the Bank. However, Petitioner suppressed the said position in his examination report. Similarly, he failed to ensure that the discrepancies in the loan proposal were rectified by the borrower-credit society and recommended the disbursement of fresh loan. It was further alleged that the discrepancies and shortcomings in the examination report were of grave nature. It was further alleged that due to Petitioner's misconduct, the Bank suffered losses. This is how a totally vague charge sheet was issued to the Petitioner, which does not clearly disclose the exact misconduct allegedly committed by him. The only allegation that can be traced from the chargesheet is that the Petitioner failed to disclose the factum of non-payment of three installments by the borrower in his examination report.

10) An inquiry was held in the chargesheet and the Enquiry Officer submitted his report holding that the charges levelled in the chargesheet were proved. Based on the enquiry report, the Board of Directors of the Bank passed Resolution on 2 May 2016 for imposition of punishment of dismissal from service on the Petitioner. Accordingly, on 9 May 2016, the order was passed dismissing the Petitioner from service w.e.f. 10 May 2016.

11) It appears that the Petitioner made a representation through his Union against the dismissal order. It appears that an Appeal was made to impose lesser punishment in the said representation. The Bank took into consideration representation of the Petitioner and the same was placed before the Board of Directors. The Bank's Board took a lenient view and decided to reinstate the Petitioner in service by imposing lesser punishment of reversion from the post of Junior Officer to the post of Bank Assistant. Accordingly, by order dated 25 May 2016, Petitioner was reverted to the position of Bank Assistant with retrospective effect from 10 May 2016. Respondent-Bank has not placed on record copies of relevant orders leading to imposition of lesser punishment of reversion w.e.f. 10 May 2016. However, the chronology of events is narrated in the second dismissal order dated 11 September 2018, which is as under:

> Accordingly the Board of Directors passed a resolution on 02.05.2016 to dismiss you from services and accordingly an order dated 09.05.2016 was issued to you and you were dismissed w.e.f 10.05.16. However, you made a representation through your Union by your Union's letter dated 10.05.2016 to give you a minor punishment. The same was put before

> the Board of Directors and on 17.05.2016 the Board considered your request and took a lenient view and accordingly decided to revert you from the post of Officer to Bank Assistant and accordingly, by order dated 25.05.2016 you were reverted to the lower post of Bank Assistant with retrospective effect i.e 10.05.2016.

12) Thus, the disciplinary proceedings came to an end with imposition of punishment of reversion on the Petitioner. Petitioner apparently did not challenge the reversion order and joined the services of the Bank on the lower position as Bank Assistant. He continued working for more than two years. However, suddenly the bank decided to reconsider the matter and a fresh Resolution was adopted by the Board of the Bank on 31 July 2018 holding that the decision for reinstatement was only for the purpose of improvisation of conduct and to assist the bank in recovery of arrears of loan to the extent of Rs.201.89 lakhs. It was alleged that Petitioner did not take any action during those two years for recovery of the loan amount. Hence the Board of Directors of the Bank decided to dismiss the Petitioner from service and this is how the order dated 11 September 2018 was passed by the Managing Director of the Bank dismissing the Petitioner from service. The reasons for imposition of fresh punishment of dismissal are indicated in the order as under:

> However, it was also decided to caution you that, in the future should there be any occasion of any misconduct or otherwise, you would be held responsible.
>
> The above decision was taken only with the view to give you an opportunity to improve your conduct and also to help the bank to recover the arrears of loan to the extent of Rs. 201.89 lakhs during your period of reversion. For the said arrears you were responsible as specifically mentioned in the Charge Sheet dated 27/28.10.2014. However, during last about two years you have not helped the bank to recover the arrears due to which you have caused serious loss to the bank. The nature of misconducts being continuous, you persisted in not

> recovering/helping the bank to recover the arrears recoverable from the customers which was at your instance. The bank continued to suffer loss of Rs. 201.89 lakhs.
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> The Board has now reconsidered/reviewed the entire situation by its resolution dated 31.07.2018 and decided to dismiss you from services and you should be held responsible for arrears of loans of Rs. 201.89 lakhs and necessary action of forfeiture of dues may be taken.
>
> Accordingly, you are hereby dismissed from services from 11.09.2018 after office hours.

13) In the Complaint of unfair labour practice filed by the Petitioner, preliminary issues were framed relating to fairness in the enquiry and perversity in the findings of the Enquiry Officer. In my view, Petitioner had not challenged the order of reversion which had attained finality. Even in the Complaint (ULP) No. 173 of 2018 the challenge was restricted to the dismissal order dated 11 September 2018. The reversion order dated 25 May 2016 was not subject matter of challenge in the Complaint. This is clear from the prayers raised in the Complaint, which reads thus:

> a) That this Hon'ble Court may be pleased to hold and declare that the Respondents are engaged in unfair labour practices within the meaning of Items (a), (b), (d), (f) and (g) of Schedule -IV of the MRTU ALI
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> b) Thal this Hon'ble Court may be pleased to direct the Respondents to cease and desist from committing aforesaid unfair labour practices.
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> c) That this Hon'ble Court be pleased to hold and declare that the order of dismissal dated 11.09.2018 which is at Exh 'A' to the Complaint is bad in law and illegal and amounts to double jeopardy.
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> d) That this Hon'ble Court may be pleased to quash and set-aside the order of dismissal dated 10.09.2018, which is at Exh 'A' to the complaint by Awarding the consequential relief to the Complainant No 2 directing the Respondents to reinstate the Complainant No.2 in the services with full back wages and continuity of service

e) That pending the hearing and final disposal of the above Complaint this Hon'ble Court may be pleased to stay the effect and implementation of the order of dismissal dated 11.09.2018 which is at Exh.'A' to the Complaint.

f) Ad-interim order in terms of prayer clause "e" herein above.

g) Such other and further order as deemed fit and proper by this Hon'ble Court depending upon the facts and circumstances of the case may be granted by this Hon'ble Court

And

h) Award cost of this Complaint.

14) In the light of absence of challenge to the finding of guilt and to the reversion order dated 25 May 2016, it was quite unnecessary for the Labour Court to go into the issue of findings in the enquiry and perversity in the findings of the Enquiry Officer. Be that as it may. The Labour Court decided both the preliminary issues against the Petitioner by order dated 18 November 2019.

15) When the Complaint was taken up for decision of remaining issues, one of the issue that fell for consideration before the Labour Court was whether the dismissal order dated 11 September 2018 was bad in law and whether it amounted to double jeopardy. Issue No.3 was framed by the Labour Court as under:

Whether the Complainant proves that, the dismissal order dated 11/09/2018 is bad in law, illegal, amount to double jeopardy ?

16) The Labour Court however considered all the four issues together and went into the issue of proof of charges against the Petitioner and held that the order on preliminary issue had already gone against him. In para-36 of the judgment, the Labour Court held that the charges levelled against the Petitioner were of serious nature. It held that leniency cannot be shown in the cases of misappropriation. However, while holding that the charges levelled against the Petitioner were of serious nature, the Labour Court did not consider the gist of the charges and merely reproduced the part of the chargesheet, in which various clauses of Regulations applicable to bank employees were quoted. The Labour Court thereafter considered case laws on the issue of showing leniency in respect of the charge of misconduct. It concluded that the charge of misappropriation is proved against the Petitioner.

17) Since the Petitioner had never challenged the punishment of reversion and the second punishment of dismissal was challenged mainly on the ground of double jeopardy, the main scope of enquiry before the Labour Court was whether punishment of dismissal could have been imposed for the same misconduct. As observed above, the Labour Court had specifically framed the issue of double jeopardy. The issue is however not dealt with by the Labour Court and is completely skirted. The Bank went into admissions given by the Petitioner about failure to recover the loan amount and proceeded to dismiss the complaint. This is clear from the following findings:

> 39. It is clear from the admissions of Complainant No. 2 in his cross examination that, after reversion at the post of Bank Assistant, he did not take efforts to recover the Loan amount for which he was Charge-Sheeted and was punished. Thus, it is clear from the documents on record as well as oral evidence of Complainant No.2 that, though the past service record of the Complainant No. 2 was not bad but, he had not taken efforts to recover the loan amount for which he was duty bound.

> 40. In the present matter, the charge of misappropriation is proved against the Complainant No. 2 and he himself has admitted that, he never made any efforts to recover the Loan from Royal Co-operative Credit Society. This conduct of Complainant No. 2 shows that, inspite of opportunity, the Complainant No. 2 did not took efforts to perform his duty honestly and to be loyal to the Respondent Bank. Thus, taking into consideration aforesaid facts proved in the present matter, in my view, the punishment of dismissal awarded by Respondents is not shockingly disproportionate. Hence, I have recorded my findings in Negative to issue no.1

18) After answering Issue No.1 in the negative, the Industrial Court did not conduct any separate enquiry into Issue No.3 and has held in para-41 as under:

> 41. I have come to the conclusion that, Complainants have failed to prove their case. Hence, I have recorded my findings in Negative for issue no. 2. Complainants have failed to prove that, the dismissal order dated 11/09/2018 is bad in law, illegal and amounts to double jeopardy. Hence, I have recorded my findings in Negative for issue no.3. Complainant no.2 is not entitled for any relief as claimed. Hence, I have recorded my findings as does not survive for issue no. 4.

19) Thus, the manner in which the entire enquiry is conducted by the Learned Judge of the Labour Court is clearly perfunctory. As observed above, there was no challenge to the reversion order, which meant that commission of misconduct is ultimately accepted by the Petitioner. The only scope of enquiry in the Complaint was about legality of second dismissal order. This enquiry is not at all conducted by the Labour Court who went into the issue of commission of misconduct and seriousness of the charges. The charge may be serious, but the issue is whether the Bank could impose two punishments for same misconduct? However, this issue is not at all decided by the Labour Court. Even if it is assumed that Petitioner admitted failure to take steps for recovery of the loan amount, no disciplinary enquiry was conducted into these allegations. Therefore, it was not open for the Bank to impose the punishment of dismissal on the Petitioner by holding that he did not make efforts for recovery of the loan amount.

20) The Industrial Court has failed to exercise revisional power conferred under Section 44 of the MRTU & PULP Act. The Industrial Court has recorded a perverse finding that decision taken by the Respondent-Bank on 25 May 2016 was an interim measure and that the doctrine of double jeopardy is not applicable to the case in hand. It further held that the doctrine of double jeopardy is not applicable to departmental proceedings. The Industrial Court has therefore upheld the power of the Bank in reviewing the entire situation and in dismissing the Petitioner by adopting fresh Resolution. The relevant findings in this regard are to be found in paras-18 and 19 of the judgment of the Industrial Court which read thus:

> 18. Admittedly, the service conditions of the employees of Respondent Bank are governed by the Standing Orders settled under the MIR Act. Moreover, it is an undisputed fact that the punishment order dated 10.05.2016 was reviewed by the Respondent Bank at the request of the Applicant. The record shows that the Applicant through his Union i.e. Original Complainant No.1, made a request vide letter dated 10.05.2016 to give the Applicant a minor punishment and the same was approved by the Board of Directors by taking a lenient view and accordingly the punishment of dismissal was revoked and substituted by awarding him the punishment of reversion vide Order dated 25.05.2016 w.e.f. 10.05.2016. However, according to the Respondent Bank, the same was by way of an interim measure, subject to final decision and further subject to the condition that the Applicant would make the loss into good by helping the Bank to recover the arrears from the customers, as he is responsible for the loss caused to the Respondent Bank. As the decision taken by the Respondent Bank on 25.05.2016 was an interim measure, the doctrine of "double jeopardy" is not applicable to the case

> at hand. Moreover, the departmental proceeding is a quasi-judicial proceeding and not a criminal proceeding, prescribed under the Code of Criminal Procedure. As such, the doctrine of jeopardy would not be applicable to the departmental proceeding. Applicant has neglected his duties by not helping the Bank to recover the arrears of Rs.2,16,00,000/- during the period of his reversion, for which he is responsible as per the allegations made in the charge-sheet and which are duly proved. Subsequently, the Bank continued to suffer loss of Rs.201.89 lacs. As such, the Board of Directors re-considered and reviewed the entire situation and decided to dismiss the Applicant by passing a Resolution dated 30.07.2018. Hence, the action taken by the Respondents is justified.
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> 19. Reliance can be placed on the observations made in the case of ***Rohidas Premchand Bhagat v/s. Divisional Controller, MSRTC and Janatha Bazar (South Kanara) Central Co-operative Whole Sale Stores Limited v/s. The Secretary, Sahakari Noukarana Sangh (2000) 7 SCC 517***, on the aspect that leniency cannot be shown in the case of misappropriation.

21) In my view, the findings recorded by the Industrial Court that the order dated 25 May 2016 imposing the punishment of reversion was an ‘interim measure’ is preposterous to say the least. The disciplinary proceedings are not open ended and they attain finality on imposition of punishment. Though limited power of review or revision may be conferred on the authorities in the applicable rules or regulations, such power of review/revision needs to be exercised based on the material in the enquiry. It is impermissible to review or revise the order on the basis of subsequent events. In a given case, where disciplinary authority erroneously exonerates the delinquent employee or imposes lesser punishment, the higher authority can exercise the power of revision and modify the order of the disciplinary authority. However, such power of revision has to be exercised based on the material available in the enquiry. In the present case, the power of review was once exercised by the Board of Directors of the Respondent-Bank. It had earlier dismissed the Petitioner vide Resolution dated 2 May 2016 and by order dated 9 May 2016, the Board reviewed its decision and adopted a fresh Resolution on 17 May 2016 deciding to reduce the punishment from dismissal to that of reversion. Exercise of power of review at that time was in order as punishment of dismissal was found to be excessive and a lenient view was taken in reducing the same. With passing of order dated 25 May 2016 reverting the Petitioner from Junior Officer to Bank Assistant, the disciplinary proceedings had come to an end. The Board of Directors had become *functus-officio* in relation to the disciplinary proceedings relating to chargesheet dated 27/28 October 2014.

22) After his reinstatement consequent to order dated 25 May 2016, if the Petitioner has committed further misconduct in not recovering the loan amount from the Borrower-credit society, he ought to have been subjected to fresh recovery proceedings. The previously closed disciplinary proceedings could not be reopened by taking into consideration the subsequent conduct of the delinquent employee. Thus, it was not open for the Board of Directors of the Bank to impose one more punishment of dismissal while taking into consideration the subsequent conduct of the Petitioner after imposition of punishment of reversion. The Board of Directors has thus acted without jurisdiction.

23) More importantly, imposition of punishment of dismissal vide order dated 11 September 2018 is also in gross violation of principles of natural justice. Petitioner is not given an opportunity of defence by alleging the charge of failure to take steps for recovery of the loan amount and he is directly visited with the punishment of dismissal.

24) The issue here is not strictly about double jeopardy. This is because the Petitioner is not dismissed from service on account of misconduct alleged in the chargesheet dated 27/28 October 2014. The dismissal order dated 11 September 2018 is premised on the alleged misconduct of failure to make efforts for recovery of the outstanding loan amount. Therefore, though the principle of double jeopardy may not apply in strict sense, since punishment is for an altogether different misconduct, the punishment would still be rendered void on account of failure to conduct any disciplinary enquiry into the same. Thus, violation of principles of natural justice in the course of imposing the punishment of dismissal from service vide order dated 11 September 2018 renders the said order illegal. The Labour and Industrial Courts have however failed to appreciate this fundamental concept and conducted enquiry into an altogether different direction. Since the direction in which the enquiry is conducted itself is wrong, the same has led to recording of erroneous conclusions.

25) In my view therefore dismissal order dated 11 September 2018 is *ex-facie* illegal and the same ought to have been set aside by the Labour and the Industrial Courts.

26) Having held that the punishment of dismissal is illegal, the next issue for consideration is about the nature of relief that can now be granted in favour of the Petitioner. It is evident that the Petitioner has already crossed the age of 60 years. He has crossed the age of retirement on 6 June 2025. Therefore, there is no question of his reinstatement in service. However, since the punishment of dismissal is rendered illegal, ordinarily a claim for full backwages can be raised from the date of dismissal till the date of retirement. Respondent No.1 is a Cooperative Bank and was required to adopt disciplinary proceedings against the Petitioner on account of his conduct leading to disbursal of loan to a credit society, who has already defaulted in repayment of previous loan. It appears that even after reinstatement of the Petitioner, the loan amount remained unpaid. It appears that in the cross-examination, Petitioner gave admissions that he did not make any efforts for recovery of the outstanding loan from the borrower. The Respondent-Bank could have conducted disciplinary enquiry against the Petitioner if they believe that the action of the Petitioner in not making efforts for recovery of the loan amounted to misconduct. The dismissal order dated 11 September 2018 is rendered illegal essentially on account of violation of principles of natural justice. Otherwise, the Petitioner does not dispute failure to make efforts for recovery of the loan amount. In my view therefore, instead of directing payment of full backwages to the Petitioner, it would be appropriate to award lump-sum compensation to him. The principle of 'No Work No Pay' though may not strictly apply in the facts and circumstances of the present case on account of Petitioner being denied opportunity to work, the said principle also needs to be borne in mind while deciding the quantum of compensation to be paid to the Petitioner. It is claimed that Petitioner was drawing salary of Rs. 65,000/- at the time of his dismissal on 11 September 2018. He has lost an opportunity to serve for more than 7 years on account of his dismissal dated 11 September 2018. Considering this position, it would be appropriate to award lump-sum compensation of Rs. 40,00,000/- which shall include all payments due towards retirement benefits, except the Provident Fund. Since all retirement benefits are also considered while deciding quantum of lump-sum compensation, the same would obviate any further litigation between the parties.

27) I accordingly proceed to pass the following order:

(i) Judgment and order dated 24 August 2022, order dated 18 November 2019 passed by the Labour Court, Mumbai in Complaint (ULP) No. 173 of 2018 and judgment and order dated 3 February 2024 passed by the Member, Industrial Court, Mumbai in Revision Application (ULP) No. 64 of 2022 are set aside.

(ii) Complaint (ULP) No. 173 of 2018 is partly allowed by holding that dismissal order dated 11 September 2018 is illegal and by setting aside the same.

(iii) Since the Petitioner has already crossed the age of superannuation, the Respondent-Bank shall pay to the Petitioner, a lump-sum compensation of Rs. 40,00,000/- *in-lieu* of reinstatement and backwages. The compensation so awarded shall include all retirement benefits payable to the Petitioner, except the Provident Fund. Beyond the lump-sum compensation so awarded, the Petitioner shall not be entitled to any other service-related benefits from the Respondent-Bank.

(iv) The awarded compensation shall be paid to the Petitioner by the Respondent-Bank within a period of 2 months, failing which there shall be interest at the rate 8% p.a. on the awarded amount of compensation from the date of expiry of 2 months.

28) With the above directions, the Writ Petition is **partly allowed**. Rule is made partly absolute. There shall be no order as to costs.

[SANDEEP V. MARNE , J.]