

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 27285 of 2015 (I)

PETITIONER:

**ALOK RANJAN AGED 41 YEARS
EMP CODE 619965, ASSISTANT GENERAL MANAGER
IDBI BANK LTD SHARED SERVICES GROUP, PANAMPILLY NAGAR
KOCHI-682 036**

**BY ADVS.SRI.S.SHARAN
SRI.A.D.SHAJAN**

RESPONDENTS:

**1. IDBI BANK LTD
IDBI TOWER, WTC COMPLEX, CUFFE PARADE
MUMBAI-400 005
REPRESENTED BYCHAIRMAN AND MANAGING DIRECTOR**

**2. SHRI NAGARAJ GARLA,
CGM, RBG SOUTH-1 ZONE & DISCIPLINARY AUTHORITY
IDBI BANK LTD, 115, ANNA SALAI
PB NO. 805, SAIDAPET, CHENNAI-600015**

BY SRI.MILLU DANDAPANI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE ARTICLES OF CHARGE NO. HRD NO. 2780 A / STAFF 132 DT. 9/10/12 ISSUED BY A. RATNAPAL, CGM-FIMD, HQ, DISCIPLINARY AUTHORITY TO THE PETITIONER
- EXT.P2: TRUE COPY OF THE STATEMENT OF INPUTATIONS IN SUPPORT OF ARTICLES OF CHARGE NO. HRD NO. 2780 B / STAFF 132 DT. 9/10/12 ISSUED BY A RATNAPAL, CGM-FIMD, HQ, DISCIPLINARY AUTHORITY TO THE PETITIONER
- EXT.P3: TRUE COPY OF THE JUDGMENT DT. 24/10/14 IN WPC NO. 495/13 OF THE HON'BLE HIGH COURT OF KERALA
- EXT.P4: TRUE COPY OF THE JUDGMENT DT. 11/11/14 IN WA NO. 1617/14 IN W.A. NO.1617/2014 IN WPC 495/13 OF THE HON'BLE HIGH COURT OF KERALA
- EXT.P5: TRUE COPY OF THE COMMUNICATION DT. 5.1.15 ISSUED BY 2ND RESPONDENT TO THE PETITIONER
- EXT.P6: TRUE COPY OF THE COMMUNICATION DT. 3.6.2015 ISSUED BY THE GENERAL MANAGER (LEGAL) TO THE PETITIONER
- EXT.P7: TRUE COPY OF THE DAILY ORDER SHEET DT. 15/6/15 ISSUED BY THE MEMBER SECRETARY OF THE INTERNAL COMPLAINTS COMMITTEE-II
- EXT.P8: TRUE COPY OF THE OBJECTION BY REGISTERED POST ON 16/6/15 SENT BY THE PETITIONER TO THE INTERNAL COMPLAINTS COMMITTEE-II
- EXT.P9: TRUE COPY OF THE DETAILED OBJECTIONS TO THE DISCIPLINARY AUTHORITY VIDE HIS LETTER DT. 26/6/15 SENT BY THE PETITIONER TO THE 2ND RESPONDENT
- EXT.P10: TRUE COPY OF THE ORDER DT. 14/7/15 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER
- EXT.P11: TRUE COPY OF THE LETTER DT. 24/7/15 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT
- EXT.P12: TRUE COPY OF THE LETTER DT. 11/8/15 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 27285 of 2015 (I)

Dated this the 28th day of September, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P12, by which the petitioner was declined legal assistance in an enquiry into the mis-conduct alleged against the petitioner. Both the petitioner and the counsel appearing for the respondent Bank rely on various decision to buttress their respective contentions. However, the issue, as of now, revolves around Rule 6(7) of the Industrial Development Bank of India Limited Officers' (Conduct) Rules, 2006 (for brevity 'Rules of 2006'), which is the only ground for rejection of the prayer of the petitioner.

2. Rule 6(7) of the Rules of 2006 is extracted hereunder, as is available in the Industrial Development Bank of India Limited Officers' Conduct Rules (OCR), 2006.

“(7) The Officer may take the assistance of any other Officer but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner or the Disciplinary Authority, having regard to the circumstances of the case, so permits.”

3. Ext. P12 specifically found that Rule 6(7) of the Rules of 2006 prohibits the engagement of a legal practitioner. The Rule extracted above definitely indicates a discretion conferred on the disciplinary authority, having regard to the circumstances of the case, to permit such legal assistance. If the Presenting Officer is a legal practitioner, then, definitely, the delinquent officer gets a right to engage a legal practitioner. However, there is no prohibition as such and the disciplinary authority could consider the circumstances of the case and permit legal assistance.

4. In such circumstance, Ext.P12 has to be set aside only for the reason that the disciplinary authority has failed to exercise such discretion. By reference to failure to exercise the discretion, it has to be emphasised that this Court does not mean that the petitioner should be given legal assistance. But, however, the circumstances of the case has to be looked into, on the basis of the application submitted by the petitioner, produced at Ext.P8, and a decision taken, either way, permitting or rejecting the prayer, with reasons stated. That is the essential concomitant of a fair exercise of discretion.

5. In such circumstance, without any observation on merits, Ext.P12 is set aside and the petitioner's application shall be re-considered by the disciplinary authority within a period of two weeks from today.

Writ petition is disposed of.

K.VINOD CHANDRAN,
JUDGE

jjj