THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.4338 of 2015

O R D E R:5

The petitioner, Chief Manager of the 2nd respondent Indian Overseas Bank, sought for a writ of mandamus for declaring the Order dated 07-11-2014 passed by the General Manager of the Bank placing him under suspension pending initiation of the disciplinary proceedings against him for acts of commission and omission on his part while performing duties as such, as illegal.

Sri N. Murthyunjay Sastry, learned counsel for the petitioner, would urge that the petitioner has been provided time up to 08-11-2014 for explaining various acts complained against him and having, thus, granted time for the petitioner to explain his conduct, the General Manager-cum-Disciplinary Authority of the Bank could not have pre-judged the whole issue on the day before itself i.e., on 07-11-2014 and place the petitioner under suspension. This, according to the learned counsel for the petitioner, is in gross violation of the principles of natural justice. The petitioner, according to the learned counsel, has been condemned unheard.

As is too well-known, an order of suspension is a pure and simple administrative order. Every employer preserves the right to keep its employee under suspension pending initiation of disciplinary proceedings. The only benefit that is allowable to an employee placed under suspension is payment of subsistence allowance. Since the employer has preferred to keep the employee away from duty and to ensure that the employee is not gravely put to hardship, subsistence allowance is paid during such period. The Regulations framed by the employer will regulate the quantum of subsistence allowance payable. In the absence of any such provision, either for placing an employee under suspension pending initiation of disciplinary proceedings or relating to payment of subsistence allowance, the employee concerned would be entitled to demand the wage last drawn to be paid as it is. In the absence of any provision for placing an employee under suspension, the right of the employer to keep him away from work must necessarily result in payment of wages in full to the employee concerned as he was otherwise willing to render services. But, wherever the service regulations or the contract of employment provided for a provision to place the employee under suspension pending inquiry, every such contract of employment can be confined to suspended animation. By placing an employee under suspension, the contract of employment will not get terminated, but gets suspended only. In other words, the relationship of master and servant subsists.

I am, therefore, not in a position to concede the applicability of the principles of natural justice in an exercise of this nature. Generally, employers resort to suspension pending enquiry more with a view to prevent further acts of omission and commission by the employees. It is only a measure in aid to secure the interests of the employer and the employee as well. I, therefore, do not find any infirmity in the Order dated 07-11-2014 passed by the General Manager of the Bank placing the petitioner under suspension pending initiation of disciplinary proceedings for acts of omission and commission allegedly done by the petitioner.

However, it is important to remember that every model employer shall strive hard to accomplish the contemplated disciplinary proceedings as expeditiously as possible after an employee is placed under suspension. His existence itself shall not be forgotten.

In the instant case, the Bank has framed the Officer Employees' (Discipline and Appeal) Regulations, 1976 in terms of and in accordance with Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, in consultation with the Reserve Bank of India, and with the previous sanction of the Central

Government. Regulation 12 thereof clearly provided for suspension of an officer employee by the competent authority where a disciplinary proceeding against him is contemplated or is pending. In the impugned order, the General Manager of the Bank, whose competency to pass the impugned order is never challenged, made it very clear that the disciplinary proceeding is contemplated against the petitioner.

With this, the writ petition stands dismissed at the admission stage, but however, without costs.

Consequently, the miscellaneous petitions, if any, stand disposed of.

NOOTY RAMAMOHANA RAO, J.

mrk
02.03.2015.