

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.35236 of 2015

and

M.P.No.1 of 2015

P.Rengasamy

... Petitioner in W.P.35236 of 2015

Vs.

The Deputy General Manager (TNKZ)
and Disciplinary Authority,
Bank of Baroda, Zonal Office (TN & KL Zone),
Baroda Pride, New No.141, 3rd Floor,
Luz Church Road,
Mylapore, Chennai-600 004. ... Respondent

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent herein namely, The Deputy General Manager (TNKZ) and Disciplinary Authority, Bank of Baroda, Zonal Office (TN & KZ Zone), Baroda Pride, New No.141, 3rd Floor, Luz Church Road, Mylapore, Chennai-600 004, bearing impugned proceedings No.TNKZ : VIG F 406 : 03 : 759, dated 25.11.2014 and to quash the same as non-est in the eye of law and consequently, to direct the respondent herein to reinstate the petitioner as Manager, Bank of Baroda with attendant service and monitory benefit and to treat the period of suspension from 25.11.2014 to date of reinstatement as one of duty for all purposes.

For Petitioner : Mr.K.S.Govindaprasad

For respondents : M/s.T.S.Gopalan & Co.

* * * * *

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent herein bearing impugned proceedings No.TNKZ : VIG F 406 : 03 : 759, dated 25.11.2014 and to quash the same as non-est in the eye of law and consequently, to direct the respondent to reinstate the petitioner as Manager,

Bank of Baroda with attendant service and monetary benefit and to treat the period of suspension as one of duty for all purposes.

2.The present writ petition has been filed by the petitioner challenging the suspension order, mainly based on the judgment delivered by the Hon'ble Supreme Court reported in (2015) 7 SCC 291 [*Ajay Kumar Choudhry Vs. Union of India*], wherein it has been held that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges/chargesheet is not served on the delinquent official and if charge memo/sheet is served, a reasoned order must be passed for extension of the suspension.

3.But, the learned counsel appearing for the respondent-Bank, by filing a detailed counter, would contend that the respondent-Bank is governed by the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Board of Directors of the respondent-Bank, in consultation with the Reserve Bank of India and with the previous sanction of the Central Government has made various Regulations, such as the Officers Service Regulations, Discipline and Appeal Regulations and Conduct Regulations. These Regulations are statutory in nature. The learned counsel for the respondent-Bank would further contend that in terms of Regulation 12 of the Bank of Baroda Officer Employee's (Discipline and Appeal) Regulations, 1976, an Officer/employee may be placed under suspension by the competent authority when a disciplinary proceeding is contemplated or pending or where a case against him in respect of any criminal offence is under investigation. Further, Regulation 12(5), provides that an order of suspension made or deemed to have been made under this Regulation shall continue to remain in force until it is modified or revoked by the authority competent. The learned counsel for the respondent-Bank has also submitted that Regulation 17 of the Bank of Baroda Officer Employee's (Discipline and Appeal) Regulations, 1976, provides that an officer/employee may prefer an appeal to the Appellate Authority within 45 days of receipt of the order of suspension referred to in Regulation 12. The petitioner herein has not chosen to file an appeal as against the impugned suspension order. Thus, the learned counsel for the respondent-Bank sought for dismissal of the writ petition.

4.The learned counsel for the petitioner submitted that the petitioner is prepared to file an appeal before competent authority and if a direction is given to the competent authority to consider and dispose of the the appeal, it would suffice.

5.The learned counsel appearing for the respondent-Bank has

also submitted that if an appeal is filed by the petitioner before the concerned competent authority, the appeal will be considered in accordance with law.

6. Heard both sides and perused the materials available on record.

7. Considering the facts and circumstances of the case and the submissions made on either side, this Court is not inclined to quash the impugned suspension order. As submitted by both sides, as against the impugned suspension order, the petitioner is having an appeal remedy under Regulation 17 of the Bank of Baroda Officer Employee's (Discipline and Appeal) Regulations, 1976, before the Competent authority.

8. Hence, the petitioner is directed to prefer an appeal before the Competent Authority, within a period of two weeks from the date of receipt of a copy of this order. On such appeal being filed, the competent authority shall consider the same in the light of the decision of the Hon'ble Supreme Court reported in (2015) 7 SCC 291 [Ajay Kumar Choudhry Vs. Union of India], and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/
Assistant registrar

TRUE COPY//

sub assistant registrar

ssv

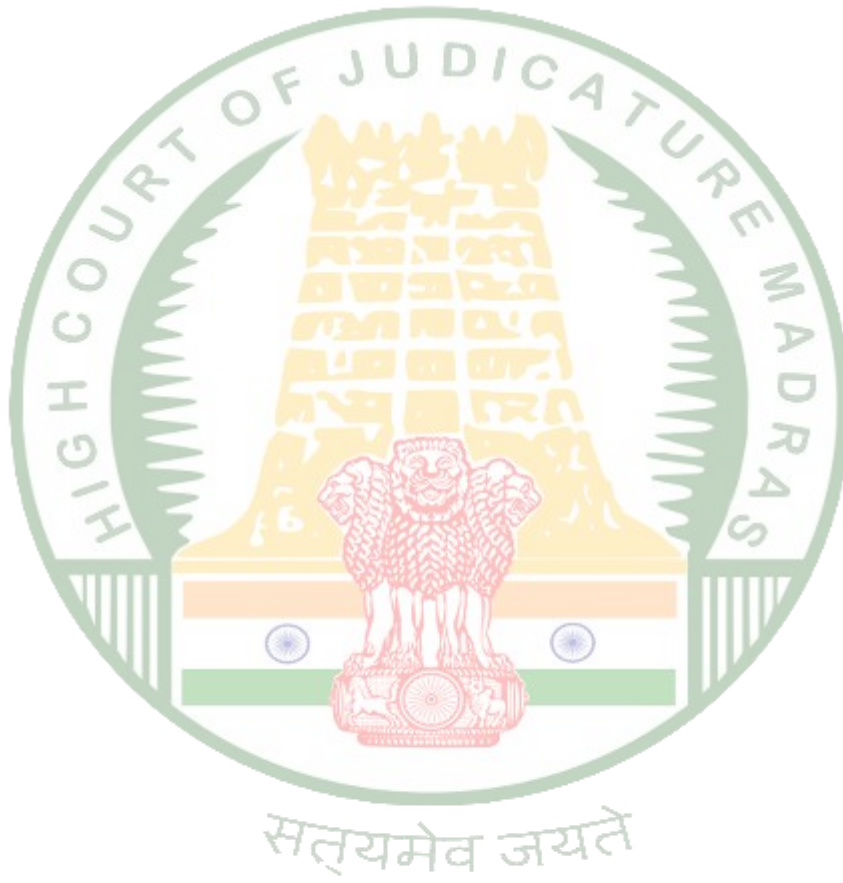
+1 CC to Mr. K.S. Govinda prasad, Advocate SR 67851

+1 CC to M/S T.S. Gopalan & Co, Advocate SR 67735

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