



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.03.2016

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.20596 of 2014

and

M.P(MD)Nos.1 and 2 of 2014

S.Mayilerinathan

... Petitioner

Vs.

1.The Regional Manager,
State Bank of India,
Regional Commercial Office - IV,
Administrative Office,
Maduram Complex,
No.2, Dr.Ambedkar Road,
Madurai -2.

2.The Enquiry Officer/Assistant General Manager(RBU),
State Bank of India,
Rural Business Unit,
Administrative Office,
Maduram Complex,
No.2, Dr.Ambedkar Road,
Madurai-2.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the first respondent in pursuant to the impugned letter issued by him in DIS.CON/41, dated 10.05.2014 and quash the same as illegal and arbitrary.

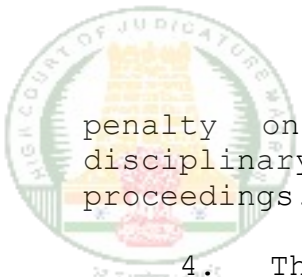
For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.S.Sethuraman

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in DIS.CON/41, dated 10.05.2014.

2. The case of the petitioner is that he is an employee of State Bank of India working as Senior Head Messenger. While he was in service, he was issued with a charge-memo, dated 21.03.2014 with six charges. Along with him, four delinquents were served with the same set of charges. So far as the petitioner is concerned, after the charge-memo was issued, Enquiry Officer was appointed and the same was challenged by the petitioner.

<https://hcservices.courts.gov.in/hcservices/>
The learned counsel for the petitioner contended that as per Rule 68(6) of State Bank of India Officers Service Rules, 1992, when two more persons are concerned in a case, the authority competent to impose major



penalty on all such officers may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings.

4. The learned counsel for the respondents submitted that on the strength of Rule 68(6) of State Bank of India Officers Service Rules, 1992, the petitioner had challenged the appointment of Enquiry Officer. He further submitted that one of the delinquents by name K.Rajendran had also challenged the appointment of Enquiry Officer on the same ground. But the said Writ Petition was dismissed. Against which, a Writ Appeal in W.A(MD)No.157 of 2015 was filed before the Honourable Division Bench of this Court. On 16.04.2015, the Honourable Division Bench has also passed the following order considering the ground of attack made by the appellant therein.

"....4.The sole plea before us is on the basis of the said rule, which reads as follows:-

"68(6) When two or more officers are concerned in a case, the authority competent to impose major penalty on all such officers may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings.

5. A perusal of the aforesaid rule shows that it is applicable to State Bank of India Officers and thus the plea of the respondent/bank is these rules have no application to the case of the appellant, who is not an officer.

6. It is further canvassed before us that the service terms and conditions of the appellant are governed by the memorandum of settlement, dated 10.04.2002, entered into between the employees and the management.

7.Learned counsel for the appellant faced with this position, seeks to submit that if such a rule is applicable to officers, in the absence of any rule qua other employees, the same should be ipso facto applicable.

8. We are unable to accept the plea that a set of rules applicable to officers should also apply to other employees. The absence of such a rule in the memorandum of settlement shows that this rule is not something which is to apply to the category, in which the appellant falls..."

5. Heard the submissions made on either side and perused the materials available on record.

6. It is seen that in the case on hand, the petitioner had the benefit of interim order. By virtue of which, the enquiry cannot be proceeded with.



7. By applying the above ratio by the Division Bench, the plea of the petitioner cannot be accepted. Therefore, the question of applicability of Rule 68(6), does not arise. As that is the only ground raised by the petitioner, which has already been decided by the Division Bench, the enquiry may go on and the respondents shall appoint a fresh Enquiry Officer, within a period of two weeks. After which, the petitioner should be afforded an opportunity of hearing and the enquiry to be completed within a period of two weeks thereafter.

With the above observation, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To

1.The Regional Manager,
State Bank of India,
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Administrative Office,
Maduram Complex, No.2, Dr.Ambedkar Road, Madurai -2.

2.The Enquiry Officer/Assistant General Manager(RBU),
State Bank of India,
Rural Business Unit,
Administrative Office,
Maduram Complex, No.2, Dr.Ambedkar Road, Madurai-2.

+1 CC to Mr.G.THALAIMUTHARASU, Advocate, SR No.13184

+1 CC to Mr.S.SETHURAMAN, Advocate, SR No.13037

W.P (MD) No.20596 of 2014

08.03.2016

pm

SH/SK-SKN:18.03.2016:3P/5C