

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6900/2017 & WMP No.7494/2017

A.Gnanaraj

... Petitioner

Vs.

1.The Regional Manager/
Disciplinary Authority,
Oriental Insurance Company Ltd.,
Regional Office, P.B.No.1877,
UIL Building 4th Floor,
No.4, Esplanade,
Chennai-600 108

2.The Deputy Manager/
Enquiry Officer,
Oriental Insurance Company Ltd.,
Division Office,
2nd floor, SBI (ADB) Upstairs,
173, J.N.Road,
Tiruvallur-602 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issue of Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 07.03.2017 issued by the 2nd respondent, quash the same, consequently direct the respondents to defer the disciplinary proceedings till the completion of the investigation/trial in Rc.MA1 2016 A 0042 CBI, ACB.

For Petitioner : Mr.N.Manokaran

ORDER

Mr.N.Manokaran, learned counsel appearing for the petitioner. This writ petition is taken up for final disposal in the admission stage itself.

2.The petitioner has come to this Court challenging the impugned order dated 07.03.2017 issued by the 2nd respondent/Enquiry Officer directing the petitioner to appear before him at 10.30 a.m., on 24.03.2017, at his Regional Office, Chennai. The learned counsel appearing for the petitioner would submit that while the petitioner was working as Development Officer, he was promoted to the post of Administrative Officer-marketing on 30.03.2009. After his promotion, the 1st respondent Insurance Company has placed him

under suspension by order dated 31.05.2016 . After sometime, the CBI and ACB Commissioner of Police came to his office and conducted a search on 20.12.2016. On completion of the search, a case has been registered in RC No.MA1 2016 A 0042 against the petitioner for the offence under Sections 420, 468, r/w 471 IPC and Sec.13(2) r/w 13 (1)(d) of the Prevention of Corruption Act, 1988. The first respondent has issued a charge memo proposing to hold a department enquiry against the petitioner under Rule 25 of the Oriental Insurance Company (Conduct, Discipline and appeal) Rules, 2014. On receipt of the charge memo, the petitioner submitted his explanation on 23.01.2017. On receipt of the explanation finding it not satisfactorily, the Second Respondent/Enquiry Officer has issued the impugned proceedings on 07.03.2017, calling upon the petitioner to appear before him on 24.03.2017 at 10.30 a.m. at his Regional Office, Chennai, stating that if he fails to appear in person he may hold the enquiry against the petitioner Ex.Parte. Since the petitioner is facing both criminal and Departmental Proceedings, he has been placed under suspension. Pursuant to the filing of criminal case, firstly the petitioner may not be able to appear for the departmental enquiry, for the reason, that if he is compelled to appear and plead before the Enquiry Officer by giving explanations that would amount to disclosure of his defence available to the petitioner before the criminal Court. Therefore, a direction should be issued restraining the Enquiry Authority to defer the disciplinary proceedings till the completion of criminal case.

3.This Court is not inclined to entertain the writ petition for two reasons.

(i)Firstly, the stage for approaching the Court has not arisen. It is an admitted case of the petitioner that even after a case was registered by CBI ACB, Chennai in RC.MA1 2016 A0042 CBI,ACB, against the petitioner for the alleged offence under Sections 420, 468, r/w 471 IPC and Section 13(2) r/w 13 (1)(d) of the Prevention of Corruption Act, 1988, petitioner's case has not been over.

(ii).Secondly, the charge sheet has also not been made ready in as much as the same has not been filed before the criminal Court.

4.In view of the above no one knows whether the petitioner is going to be prosecuted before the Department for the same charge before the criminal Court. Therefore, it is not possible for the petitioner praying to defer the

proceedings till the competition of the case before the criminal Court. Therefore, this writ petition fails and is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

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To

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+1 cc to Mr.N.Manokaran Advocate sr 18082

W.P.No.6900/2017

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