

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-07-2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 18818 of 2017

and

W.M.P.Nos.20336 & 20337 of 2017

V.Rajendran

...Petitioner

Vs.

1. The General Manager (P),
Syndicate Bank, Head Office,
Manipal, 576 104, Karnataka State.
2. The Assistant General Manager (P),
(The Disciplinary Authority),
Syndicate Bank, Head Office,
Manipal, 576 104, Karnataka State.
Pin: 603 301.
3. C.R.Sushil Kumar,
Inquiring Authority,
Senior Manager,
Regional Office,
Syndicate Bank,
Chennai.

... Respondents

Prayer :Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records of the findings of the inquiring authority, the third respondent herein dated 02.06.2017 based on the Charge sheet No.017/PD:IRD/DA-3 dated 17.01.2017 of the second respondent herein issued to the petitioner and Quash the same and to hold a De Novo enquiry based on the Charge sheet No.017/PD:IRD/DA-3 dated 17.01.2017 of the second respondent herein issued.

For Petitioner

: Mr.G.Purushothaman

O R D E R

The second show cause notice issued to the writ petitioner on 01.07.2017, along with the copy of the enquiry report dated 02.06.2017, which is under challenge in this writ petition.

2. The Learned Counsel appearing for the writ petitioner contended that the enquiry report itself is defective and the enquiry was conducted without providing all reasonable opportunities to the writ petitioner. Thus, the enquiry report is perverse and liable to be quashed.

3. This Court is unable to appreciate the contentions raised across the bar by the learned counsel for the writ petitioner. The charges against the writ petitioner are no doubt a serious one. The writ petitioner was employed as a Senior Manager in a Nationalized Bank. The writ petitioner, in his capacity as a Senior Manager of a Branch, is alleged to have committed serious irregularities in various bank transactions, more specifically in relation to sanctioning of loans. The writ petitioner, on receipt of the charge memo, had participated in the enquiry proceedings and defended the case. The enquiry was completed and the Domestic Enquiry Officer submitted a detailed report on 08.06.2017. Enclosing the enquiry report, the respondents issued a show cause notice on 01.07.2017, asking the writ petitioner to submit his explanations / objections on the enquiry report. Challenging the second show cause notice, the writ petitioner moved this petition under Article 226 of Constitution of India.

4. The very same writ petitioner, in this writ petition, has filed another writ petition in WP No.18809 of 2017, challenging another charge memo issued against him. The learned counsel for the petitioner represented that in respect of those charges, a criminal case was registered and the Central Bureau of Investigation (CBI) has undertaken the investigation and the same is yet to be concluded. However, the writ petitioner had withdrawn that writ petition at the time of admission. However, the present writ petition is no way connected with the charge memo relating to that writ petition.

5. In respect of the present writ petition, this Court is of the view that no writ can be entertained against the show cause notice, unless, it is established that the said show cause notice was issued without jurisdiction or by an incompetent authority or it was issued on mala fides. Even in case of alleging mala fides, the authority against whom such an allegation was raised, to be impleaded as party respondent in the writ proceedings in his personal capacity. In the absence of

any one of these legal grounds, no writ can be entertained at the stage of show cause notice because show cause notice is nothing but an opportunity provided to the delinquents to submit their statement of defence/ explanations/objections to clear their stand.

6. It is left open to the writ petitioner to submit his explanation on the enquiry report to the Disciplinary Authority. On receipt of the same, the Disciplinary Authority shall consider all the materials available on record and pass final orders in the disciplinary proceedings.

7. In this view of the matter, entertaining any writ petition, at the stage of show cause notice, will certainly cause prejudice to the conclusion of the disciplinary proceedings. Any disciplinary proceedings initiated against the delinquent should reach its logical conclusion. Intermittant intervention in disciplinary proceedings are certainly not preferable. Such an intervention can be made only under exceptional circumstances. This apart, entertaining writ petitions, at this stage, will not only cause delay for the conclusion of the disciplinary proceedings, it will cause prejudice to the proceedings itself. Such being the view of this Court, there is no merit in the contentions raised in this writ petition.

8. Thus, this Court is of the firm opinion that no writ petition can be kept pending for an unspecified period, causing inconvenience for the continuance of the disciplinary proceedings. It is the duty of the writ petitioner to prove his innocence by explaining his position through his objections/explanations and by producing evidences available with him before the Disciplinary Authority and that is the remedy available to the writ petitioner.

9. Accordingly, this court is not inclined to consider the grounds raised in this writ petition. Thus, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kas/Svn

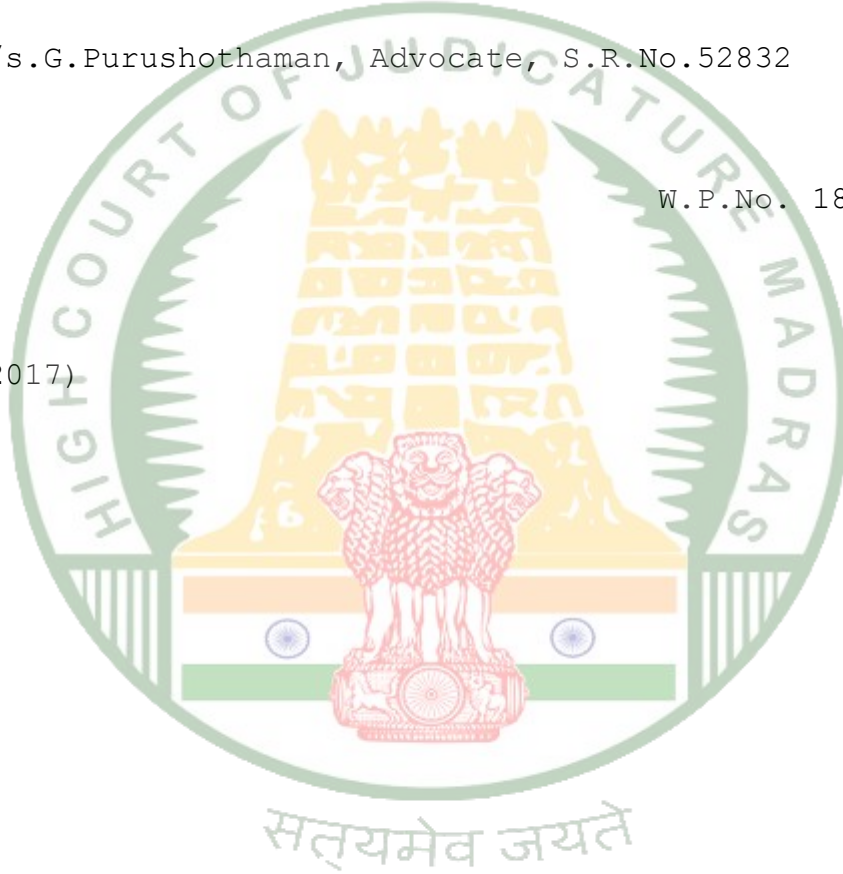
To

1. The General Manager (P),
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2. The Assistant General Manager (P),
(The Disciplinary Authority),
Syndicate Bank, Head Office,
Manipal, 576 104, Karnataka State.
Pin: 603 301.

+1cc to M/s.G.Purushothaman, Advocate, S.R.No.52832

W.P.No. 18818 of 2017

EV(CO)
CU(10/08/2017)



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