



IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 05.09.2017
JUDGMENT PRONOUNCED ON : 18.12.2017

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CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.895 of 2010

R.Antony ...Appellant/Petitioner

.. Vs ..

- 1.Indian Overseas Bank
rep.by its Chairman
Managing Director,
Indian Overseas Bank,
762, Anna Salai,
Chennai - 600 002.
- 2.The Appellate Authority,
Chairman & Managing Director,
Indian Overseas Bank, Central Office,
762, Anna Salai,
Chennai - 600 002.
- 3.The Disciplinary Authority and
Deputy General Manager,
Indian Overseas Bank, Central Office,
762, Anna Salai,
Chennai - 600 002.
4. The Inquiring Authority,
Indian Overseas Bank, Central Office,
762, Anna Salai,
Chennai - 600 002.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 05.02.2010 made in W.P.No.7596 of 1999.
W.P.No.7596 of 1999:- Writ Petition filed under under Article 226 of the Constitution of India, praying for a Writ of Certiorari calling for the records pertaining to the impugned order of the fourth respondent bearing No.DO:GM(VRK):DA:128:97 dated 09.08.1997 and the impugned order of the second respondent bearing No.DO:MD:AA:3419 dated 11.03.1998 and quash the same.



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For Appellant : Mr.C.R.Chandrasekaran

For Respondents : Mr.Sreenivasa Rao
For M/s.N.G.R.Prasad
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JUDGMENT

RMT.TEEKAA RAMAN, J.

Challenging the correctness of the order passed in W.P.No.7596 of 1999, dated 05.02.2010, the unsuccessful petitioner has preferred this appeal.

2. For the sake of convenience, parties are referred as per the ranking before the learned Single Judge.

3. The petitioner/appellant has challenged the order of dismissal passed by the third respondent. On 19.06.1996 whereby, he was dismissed from service for each one of the charges.

4. After hearing the rival contentions of the parties and the records submitted by both the parties and after perusing the orders of learned Single Judge, the point to be decided is as to: Whether the order of dismissal passed by the third respondent dated 19.06.1996 is sustainable in law only.

5. The brief facts that are necessary for determination are that:

i) The appellant while functioning as Chief Manager of the Singapore Branch of the respondent bank committed certain gross irregularities. On 12.03.1994, an explanation was called for. The appellant submitted his explanation on 12.05.1994.

ii) The Bank issued a charge sheet dated 11.08.1994 containing 5 allegations. The appellant submitted his reply on 3.11.1994. It appears that by its judgment dated 18.07.1994, the Subordinate Court of the Republic of Singapore held that the assignment said to be have been executed between the Bank (Appellant signed on behalf of the Bank) and the borrower (customer) was forged.

iii) When the Bank was contemplating to initiate disciplinary proceedings, on 22.06.1995 the appellant submitted a resignation letter stating that he may be relieved w.ef.30.06.1995 for his better prospects. On 24.06.1995 the Bank rejected his request. On 26.06.1995 the appellant went on medical leave from 26.06.1995. On 1.7.1995 he produced a medical certificate stating that he is fit to join duty on 1.7.1995.



Inspite of the fitness certificate, the appellant did not resume duty but remained absent unauthorisedly. Therefore, the respondent/Bank issued an Additional charge sheet dated 24.07.1995 charging him for unauthorized absence from 1.7.1995. The appellant failed to submit his explanation to the Additional charge sheet.

6. On 28.08.1995, Disciplinary authority ordered enquiry for both the charge sheets. On 06.03.1996 enquiry notice was sent to appellant fixing the date of enquiry on 22.03.1996. On 22.03.1996, appellant failed to attend enquiry. Inspite of granting several adjournments, the appellant did not attend the enquiry. He was set ex-parte.

7. The Management witnesses MW1 and MW2 were examined and 17 documents were marked in support of the 1st charge sheet dated 11.08.1994 and 4 documents were marked in support of Additional charge sheet dated 24.07.1995.

8. After considering entire aspect, the third respondent has imposed punishment of dismissal and appeal to the appellate authority was rejected on 17.11.1997. Review petition was rejected on 22.08.1998 and hence, W.P.No.7596 of 1999 which is also dismissed and hence, this Writ Appeal.

9. Heard both sides and perused the records.

10. It is seen from the records that when explanation was called for, the appellant attempted to resign and the same was rejected. Thereafter, he has submitted a Medical Leave. Though, the fitness certificate was issued on 1.7.1995, he did not join duty inspite of the medical officer stated that he was fit to join and hence charges stand proved including unauthorized absence and also he has not participated in the enquiry, though notice has been served upon him. After giving the opportunity of being heard and personal enquiry, the disciplinary authority has passed an order and the appellate authority also confirmed the same.

11. After seeing the first charge which is relating to the alleged misconduct, namely, the Appellant/petitioner has signed on behalf of the respondent in respect of a property said to have been assigned to the Bank for raising the loan from Gangatharan, the competent Court namely, the Court in Singapore has categorically gave a finding that it was a forged document and further held that the Appellant/petitioner was a party to the forgery which has resulted huge loss of Rs.45,00,000/- even before 35 years and the other charge which was proved also appears to very serious in nature. Further, in the absence of any justifiable reason by the Writ Petitioner for his unauthorized absence, the Enquiry Officer has rightly come to the



conclusion that all the charges both misconduct of colluding with the Gangatharan for creating forged document in Singapore to the tune of Rs.45,00,000/- and also un-authorized absence are stand proved.

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12. The learned counsel for the petitioner/appellant has submitted that a copy of the finding of the Enquiry Officer was not furnished to the petitioner/ delinquent and the punishment imposed therefor.

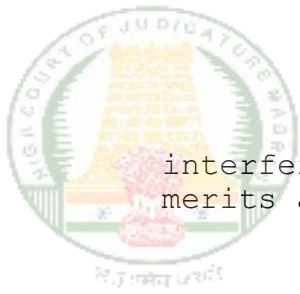
13. Per contra, the learned counsel for the respondents would rely upon the decision of the Constitution Bench of the Supreme Court in MD, ECIL Vs.Karunakar case reported in 1993(4) SCC 727 to contend that the furnishing of Enquiry Officer report arises only in the case, where the Disciplinary Authority is different from that of the Enquiry Officer. The relevant paragraph of the said decision reads as follows:-

" Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to receive a copy of the inquiry Officer's report before the disciplinary authority arrives as its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him...." (emphasis supplied)"

14. The learned counsel for the respondents further submits that in the instant case, while both the findings of the Inquiry Officer and Disciplinary Officer are being one and the same, the petitioner herein who has been charged for misconduct, remained ex-parte during the Domestic Enquiry and has now come forward with the above plea.

15. Taking note of the above submission of the learned counsel for the respondents, in our view, the above plea of non furnishing of copy of the report, in the light of the above referred decision [MD, ECIL Vs.Karunakar case reported in 1993 (4) SCC 7270 of the Apex Court, we have no hesitation to uphold the contention of the respondent-Bank.

16. Therefore, we do not find any reason to interfere with the well considered findings and the order of the learned single Judge, who held that all the charges have been duly proved in the Enquiry and necessary requirements have been followed in the holding of domestic enquiry, conducted by the respondents. As such, the learned Single Judge has rightly refused to interfere with the order of dismissal passed against the Writ Petitioner and in our considered view, the same does not call any



interference in this Writ Appeal and this appeal is devoid of merits and accordingly, dismissed. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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+1 cc to Mr.N.G.R.Prasad Advocate sr 90159
+1 cc to Mr.CR.Chandrasekaran Advocate sr 90803

W.A.No.895 of 2010

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