

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.3458 OF 2017

ORDER :

Heard Smt K.Sesharajyam, Senior Counsel appearing for Smt Deepika Gadde, counsel for petitioner and Smt Bobba Vijayalashmi, Standing Counsel for respondents 3 to 5.

2. Petitioner had filed this Writ Petition assailing the show cause notice dt.23.01.2017 issued by the 4th respondent asking the petitioner to show cause why disciplinary proceedings should not be initiated against him and asking him to submit an explanation to the same within ten days.

3. The learned Senior Counsel appearing for the petitioner contends that the said show cause notice is not in accordance with clause (ix) of Regulation 65 of the Service Regulations framed by the 3rd respondent. She contended that before issuing the impugned show cause notice, an Enquiry Officer had been appointed by the 3rd respondent-Bank, that the petitioner had raised a contention that the said Enquiry Officer has no jurisdiction to conduct the enquiry into the charges framed against the petitioner, but the said Enquiry Officer had conducted an enquiry in violation of the service regulations referred to above and on

the basis of such a defective enquiry, the impugned show cause notice has been issued erroneously mentioning in the last paragraph that disciplinary proceedings are contemplated, though they have been completed and that the 4th respondent should have mentioned the proposed punishment as mandated by clause (ix) of Regulation 65 of the Service Regulations.

4. Per contra, the Standing Counsel for respondents 3 to 5 submitted that the allegations against the petitioner are serious, that after issuing a charge memo and receiving explanation from the petitioner, a valid enquiry was conducted by the Enquiry Officer, that a report was submitted holding that the charge framed against the petitioner was proved, and on that basis the 4th respondent had issued the impugned show cause notice. She stated that the words “kramashikshana charyalu” used in the last paragraph of the impugned show cause notice ought to be interpreted as “punishment” and not as “disciplinary action” and there is no infirmity in the impugned show cause notice. She further contended that at this stage, the proceedings against the petitioner cannot be interdicted, merely because the petitioner is questioning the jurisdiction of the Enquiry Officer, since the petitioner had not come to the Court

immediately after the issuance of the charge memo and questioned the same. She further contended that the 4th respondent would consider all aspects of the matter, if the petitioner submits an explanation to the impugned show cause notice and he will then decide the issue in accordance with law.

5. The facts on record reveal that a charge memo was issued to the petitioner on 30.11.2016, to which the petitioner had given an explanation on 08.12.2016. Thereafter an Enquiry Officer was appointed on 16.12.2016 and he submitted an enquiry report on 11.01.2017 holding the charge framed against the petitioner was proved. After receipt of the said Enquiry Report dt.11.01.2017, the impugned show cause notice has been issued on 23.01.2017 by the 4th respondent.

6. Normally this Court would not interdict the disciplinary proceedings at this stage where enquiry report is already submitted. This is not to say that the Court has expressed any opinion on the contention raised by the Writ Petitioner about the jurisdiction of the Enquiry Officer or in the manner in which the Enquiry Officer conducted his enquiry. These issues can be gone into, after the 4th respondent, considers the petitioner's explanation to the

impugned show cause notice, and takes a decision to impose any punishment on the petitioner and if the petitioner challenges the same.

7. Therefore, I am not at this stage inclined to go into the contentions of the Senior Counsel appearing for the petitioner challenging the jurisdiction of the Enquiry Officer or in regard to the findings of the Enquiry Officer on the ground that the procedure prescribed in clause (ix) of Regulation 65 of the Service Regulations has not been followed by the Enquiry Officer.

8. However, to the limited extent that the impugned show cause notice should indicate the proposed punishment which clause (ix) of Regulation 65 of Service Regulations mandates, I am inclined to agree with the contention of the Senior Counsel and hold that the impugned show cause notice dt.23.01.2017, to the extent that it did not disclose the proposed punishment, cannot be said to be valid in law. However, the respondents 3 to 5 are given liberty to issue a fresh show cause notice mentioning the proposed punishment and the petitioner is granted two (02) weeks time from the date of receipt of such show cause notice to submit a detailed explanation raising all legal and factual contentions open to the petitioner and the 4th respondent

shall then consider the same in accordance with law and pass a reasoned order and communicate the same to the petitioner. It is made clear that this Court has not expressed any opinion on the rival contentions of either party on the questions of jurisdiction, manner of enquiry or on merits.

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

10. Consequently, miscellaneous petitions pending if any, shall stand closed.

01st February, 2017

M.S. RAMACHANDRA RAO, J

Note: Issue C.C. in three days.

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