THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI

WRIT APPEAL NO.942 OF 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in WV.MP.No.980 of 2017 in WP.MP.No.6980 of 2017 in WP.No.5725 of 2017 and WP.No.5725 of 2017. The appellant herein is the first respondent in the Writ Petition. The first respondent herein filed W.P. No.5725 of 2017 questioning the order dated 12.01.2017 suspending him from service, as arbitrary and illegal.

In the order under appeal, the learned Single Judge observed that the charges levelled against the petitioner were some what serious, having regard to the quantum of loans which he was alleged to have sanctioned while he was working as the Deputy General Manager at the Hyderabad office of the respondent-Bank; seriousness of the charge alone, without reference to other circumstances, cannot be a ground to suspend an employee pending enquiry; having regard to the fact that there was no allegation that he had misappropriated any amounts, or that there was a likelihood of his tampering in any way with the evidence or witnesses, the fact that the incidents in question were alleged to have occurred not in Mumbai, where he is presently working, but in Hyderabad where he was working prior to 2011, and he was promoted to the post of General Manager in 2011, rendered the impugned order of suspension arbitrary and illegal; and the said order of suspension was intended only to insult and humiliate the petitioner.

A bare perusal of the order of suspension reveals that the Executive Director of the Appellant-Bank had recorded that, during his tenure as a Deputy General Manager & Cluster Head-Agri at Chapel Road, Hyderabad from November 20, 2008 to May 9th 2010, as Cluster Head-Agri at Basheerbagh Branch, Hyderabad from May 10, 2010 to October 31, 2010, and as Head-APC at Basheerbagh Branch, Hyderabad from November 01, 2010 till July 20, 2011, the petitioner had grossly abused his official position, had acted in gross neglect of his duties and responsibilities, he had deviated from the laid down systems and procedures and had sanctioned and approved disbursement of various pisciculture loans extending undue favours to borrowers, and had thereby exposed the Bank to huge financial loss. After recording his considered view that these loans were sanctioned and disbursed in blatant violation of the Bank's guidelines, and adversely reflected upon the respondent-writ petitioner's integrity and devotion to duty, the Executive Director of the appellant bank placed the petitioner under suspension with immediate effect.

The power to suspend an employee of the appellant-bank, either in contemplation of disciplinary proceedings or during its pendency, is conferred on the competent authority under Rule 13(1)(a) of the Industrial Development Bank of India Limited Officers' (Discipline & Appeal) Rules (ODAR), 2006 ("the Rules" for brevity). The said Rule stipulates that an officer may be placed under suspension by the competent authority where a disciplinary proceedings against him is contemplated or is pending. In the present case, the disciplinary proceedings initiated against the respondent-writ petitioner was pending, when the order of suspension was passed, as charge sheets were issued to him on 15.09.2016 and 19.12.2016 respectively. In these charge sheets, the allegations levelled against the respondent-writ petitioner is of having sanctioned loans of several crores to persons contrary to the prescribed guidelines, and without proper due diligence and appraisal of the loans. In the order of the learned Single Judge, under challenge in this appeal, the seriousness of the charge is accepted. It is not even the case of the respondent-writ petitioner that exercise of power under Rule 13(1)(a) of the Rules is malafide. The Employer/Competent authority has the power to suspend his/its employee on charges of misconduct and, in judicial review proceedings under Article 226 of the Constitution of India, this Court would neither sit in judgment over such a decision nor would it substitute its views for that of the competent authority. The mere fact that the loans were granted several years ago, or that the petitioner is working at a place different from where the loans were granted, does not disable the competent authority from suspending the employee pending disciplinary enquiry as such a power is specifically conferred on him under the Regulations. It is not as if the petitioner has been placed under suspension without any basis whatsoever, as a bare reading of the charge sheet shows that the allegations levelled against him are extremely grave and serious in nature i.e., of his having granted loans, running into several crores, to unduly help certain borrowers which have later turned sticky resulting in the bank facing the imminent possibility of suffering huge financial losses.

Except in cases where the authority who passed the order of suspension lacks jurisdiction to do so, or the power to suspend the employee is exercised malafide, or the order of suspension is so palpably arbitrary as to fall foul of Article 14 and 16 of the Constitution of India, interference in judicial review proceedings under Article 226 of the Constitution of India, with an order suspending an employee pending disciplinary proceedings, would not be justified. It is not even the case of the respondent-writ petitioner that the order of suspension is without jurisdiction or was passed malafide. We are satisfied that the order of suspension, for grave and serious allegations of having sanctioned and disbursed loans, running into several crores, contrary to the laid down guidelines only to unduly benefit certain persons, is not so arbitrary as to violate Article 14. The order under appeal, suspending the order of suspension, therefore, necessitates being set aside.

The fact, however, remains that the petitioner cannot be continued under suspension for an unduly long period, and an early completion of the disciplinary enquiry initiated against him would be in the interests of both the appellant-bank and the respondent-writ petitioner. We consider it appropriate, therefore, to direct the appellant-bank to complete the disciplinary enquiry initiated against the writ petitioner with utmost expedition, in any event not later than six (6) months from today.

The order under appeal is set aside, and the Writ Appeal is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

13th July 2017
Note: Issue CC by one week
B/O
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