

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:06.06.2018
CORAM:

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.13573 of 2018
and
WMP.Nos.15991 and 15992 of 2018

S.Soundirarajan

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Petitioner

Vs

1. Indian Overseas Bank,
Rep. by its Chief Executive Officer/Managing Director,
Central Office, 763, Anna Salai,
Chennai-600 002.

2. The Chief Manager/Disciplinary Authority/
CDA Cell, Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai-600 002.

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Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ Of Certiorarified Mandamus to call for the records relating to the impugned order bearing DO:DA:CM(NS):VIG:File-8346:2018-19 dated 31.05.2018 issued by the 2nd Respondent and to quash the same and consequently direct the 2nd Respondent to conduct de novo enquiry in respect of charge sheet issued to the petitioner dated 26.11.2013 after offording opportunity to the petitioner.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Mr.N.G.R.Prasad (R1 and R2)

O R D E R

This Writ Petition has been filed to call for the records relating the impugned order bearing DO:DA:CM(NS):VIG:File-8346:2018-19 dated 31.05.2018 issued by the 2nd Respondent and to quash the same and consequently direct the 2nd Respondent to conduct de novo enquiry in respect of charge sheet issued to the petitioner dated 26.11.2013 after offording opportunity to the petitioner.

2. Mr.Srinivas, learned counsel submits that he has the instructions to appear on behalf of the respondents.

3. The learned counsel for the petitioner submits that the petitioner in this case challenges the show cause notice dated 31.05.2018 on the ground that the enquiry officer who was also earlier disciplinary authority, has furnished the enquiry report, is an superannuated officer and therefore on his enquiry report, the show cause notice issued is vitiated and as such he has prayed to quash the enquiry report. The learned counsel for the petitioner during the course of arguments had relied upon the decision of Hon'ble Supreme Court in Central Bank of India Vs., C.Bernard reported in 1991 1 SCC 319. On a perusal of the aforesaid decision, it is seen that the said decision is contrary to the arguments advanced by the learned counsel for the petitioner. The Hon'ble Supreme Court in the said case categorically held that the disciplinary authority cannot be the person who is not in service and the enquiry officer can be the person who is not in service. In the instant case, the enquiry officer who furnished the report is a superannuated officer basing on which the disciplinary authority is going to pass the orders.

4. In such view of the matter, the petitioner has prima facie no case to challenge the enquiry officer report.

5. For the aforesaid reasons, this Writ Petition is dismissed, at the stage of admission itself without issuing notice. However, it is made clear that non issuance of the notice at this stage should not be construed as expression of any opinion on the merits of the enquiry report. Therefore, the disciplinary authority shall pass the order, on receipt of the response to be submitted within stipulated period, without being influenced, by the order of this Court. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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+1cc to Mr.N.G.R.Prasad, Advocate, S.R.No.35078

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.34908

W.P.No.13573 of 2018

CS/19/06/18