

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.Nos.1642 and 1643 of 2016
and
C.M.P.No.20364 of 2016

B.Lakshmikanth

Appellant

Versus

1. The General Manager (Network II)
Appointing Authority
State Bank of India-Local Head Office,
Circle Top House, Aparna Complex,
No.16, College Lane, Chennai 600 006.
 2. The Deputy General Manager (B&O),
Chennai Zone-I, Disciplinary Authority,
State Bank of India,
Disciplinary Proceedings Cell,
Administrative Office, Chennai Zone,
Chennai Network-1,
86 Rajaji Salai, Chennai 600 001.
- Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 29.9.2016 passed in W.P.Nos.17966 and 37590 of 2015 on the file of this court.

PRAYER IN W.P.Nos.17966 of 2015:

Writ Petition has been filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the order passed by the 1st respondent bearing number in VIG/KE/30 dated 16.06.2015 and also the chargesheet issued by the 2nd respondent bearing in No. DIS/CON/1108 dated 05.02.2014, and quash the same and further direct the 2nd respondent to reinstate the petitioner in serviced with full back wage, continuity of service and all other attendant benefits.

PRAYER IN W.P.Nos.37590 of 2015:

Writ Petition has been filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in order of suspension in No.Dis/CON/27 dt 9.4.2013 on the file of 2nd respondent and quash the same as illegal and to direct the respondents to reinstate the petitioner into service.

For appellant : Mr.N.G.R.Prasad for
Mr.R.Sankarasubbu

For respondents : Mr.S.Ravindran
Standing Counsel

COMMON JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. The writ appeal is filed by the writ petitioner-an employee of the respondent-bank aggrieved against the order passed by the learned Single Judge in dismissing the writ petition filed by him as against the charge memo filed against him.

3. It appears that pending the writ petition filed challenging the charge memo, the writ petitioner was served with a second show cause notice proposing to impose a punishment of dismissal from service.

4. Considering the facts and circumstances of the case, this court had passed an interim order on 5.6.2017, para 2 of which reads thus:-

"It appears that having regard to the allegation and counter allegation made, the learned Judge i.e., my predecessor has made a suggestion that instead of proceeding to dismiss and discharge him, the delinquent may be permitted to make a representation and the respondent-Bank to consider sympathetically less the punishment of dismissal, since he is young in age at the stage when the matter is pending. It appears once again, the learned counsel representing the delinquent vehemently contended that no consent is taken by giving a representation. It is for the petitioner to

give a representation and also to appear before the appropriate authority and the appropriate authority shall take a decision within three months and also give a personal hearing to the petitioner and pass orders and however, in the meanwhile, both these appeals be kept pending for consideration. Thereafter if any adverse decision is taken against the appellant, he can move this court."

5. Now, it is brought to our notice that subsequent to the above interim order passed by this court, the enquiry proceedings was completed and the appellant/writ petitioner was dismissed from service against which order, the appellant has an appeal remedy before the appellate authority and he cannot any more pursue the present proceedings.

6. Per contra, it is the submission of the learned counsel appearing for the appellant that before passing such order, the disciplinary authority has not taken into consideration the representation of the appellant and the appellant has not even been served with the order passed by the disciplinary authority.

7. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the tenor of the interim order passed by this court on 5.6.2017 discloses that this court, considering the young age of the appellant/writ petitioner, only a liberty was provided to the appellant/writ petitioner to submit a representation and in such event, only a suggestion was given to the authority concerned to consider the same by affording personal hearing. Such a suggestion has not been complied with by the authority, it is submitted by the learned counsel appearing for the appellant.

8. In this regard we are of the view that the interim order passed by this court is only a suggestive one in nature and there is no mandate on the part of the authority. Be that as it may, the authority has passed an order at the conclusion of the disciplinary proceedings, which, the appellant can very well challenge before the appellate authority and in such event, it is for the appellate authority to consider the same on its own merits and in accordance with law. We have no further say in the matter. Therefore, the appellant/writ petitioner is granted one month's time from the date of receipt of a copy of this judgment to move the appellate authority.

9. The writ appeals are disposed of accordingly. No costs.
The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-vii)

//True Copy//

Sub Assistant Registrar

ssk.

+1cc to Mr.S.BAZEER AHAMED, Advocate, S.R.No.38781

W.A.No.1642 & 1643 of 2016

BA (CO)
TR (20/07/2018)



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