

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1285 of 2013

T.K.Shivashankara Naik,
Asst. General Manager (UIN 1979)
National Bank for Agricultural &
Rural Development Bank, (NABARD),
Tamil Nadu Regional Office,
No.48, (old 105/106)
Mahatma Gandhi Road,
Post Box No.6074,
Chennai-600 034.

.. PETITIONER

Vs

1. THE CHIEF GENERAL MANAGER,
NATIONAL BANK FOR AGRICULTURAL &
RURAL DEVELOPMENT BANK, (NABARD)
TAMIL NADU REGIONAL OFFICE,
NO.48, (OLD-105/106)
MAHATMA GANDHI ROAD,
POST BOX NO.6074,CHENNAI-600 034.

2. THE CHIEF GENERAL MANAGER
& COMPUTER AUTHORITY,
NABARD TOWER,
OPP. MUNICIPAL GARDEN,
USMANPURA,
AHAMEDABAD-380013.

3. THE MANAGING DIRECTORATE
& APPELLATE AUTHORITY
NABARD HEAD OFFICE,
NO.C-24, G-BLOCK,
BANDRA KURLA COMPLEX,
BANDRA (EAST),
MUMBAI-400 051.

.. RESPONDENTS

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records relating to the appellate authority order dated 5.5.2008 in ref.NB MPRO BPL/S178/Staff (TKS)/2008-2009, passed by the 3rd respondent herein and as confirmed by 2nd respondent in ref:Office order No.62/2007/2008 dated 26.9.2007, by way of

penalty of reduction of pay by six stages on a permanent basis be reduced by five stages for a period of 5 years, without postponing future increments and quash the same.

For Petitioner : Mrs.A.Sumathy
For Respondents : Mr.K.Sukumaran

O R D E R

The Petitioner was working as Manager of NABARD in Gujarat Regional Office, Ahmadabad, during the year 2006. He was issued with the charge sheet dated 29.08.2006 by making allegations that he violated Rule 26 of NABARD (Staff) Rules, 1982 and committed misconduct within the meaning of Rule 47(1) of the NABARD (Staff) Rules [for short "Rules"]. The petitioner gave his reply to the charge sheet denying the charges on 08.11.2006. Thereafter, the petitioner was issued with another charge sheet on 20.02.2007 alleging additional five charges. Denying the allegations made in the second charge sheet, petitioner gave reply on 07.03.2007. Not being satisfied with the replies, the 2nd respondent appointed an enquiry officer and a Presenting Officer, to conduct a disciplinary enquiry. On the enquiry report, the petitioner was asked to give his submission/representation. The petitioner also sent representations dated 21.04.2007 and 16.08.2007 to the 2nd respondent. According to the petitioner, the 2nd respondent without considering the replies given by him, passed the impugned order dated 26.09.2007 imposing punishment that the pay is reduced by six stages on permanent basis, without postponing the future increments. The Post scale Special Pay, Personal Allowance, Fixed Personal allowance, stagnation increments, if any granted to the petitioner on or after reaching the maximum of petitioner's scale of pay shall stand withdrawn and will be payable on completion of specific period after reaching maximum of scale of pay. The 2nd respondent revoked the order of suspension, holding that the period of suspension from 16.01.2007 to 26.09.2007 will be treated as extra-ordinary leave without pay and allowance not counting for increment.

2. It is the contention of the writ petitioner that the 3rd respondent-Appellate Authority, without considering the contentions taken by the petitioner in the Appeal Memo dated 07.11.2007, passed the order dated 05.05.2008.

3. The learned counsel appearing for respondents 1 to 3 raised a preliminary objection stating that the writ petition is not maintainable as the cause of action arouse only at Ahmedabad, Madurai Bench of Madras High Court and this Court has no jurisdiction to entertain the writ petition. Therefore, the writ petition is to be dismissed for want of jurisdiction.

4. In reply to the above raised jurisdiction issue, the learned counsel for the petitioner submits that the petitioner was transferred from Bhopal to Chennai in the year 2012 and therefore, after the petitioner settling down at Chennai, present writ petition has been filed challenging the impugned order. In support of his submission, learned counsel for the petitioner relied upon the unreported Judgment of Honourable Supreme Court of India, in Civil Appeal No.7414 of 2014 dated 07.08.2014 [NAWAL Kishore Sharma VS. UNION OF INDIA AND OTHERS], wherein, the Supreme Court has held as follows:-

"20. We have perused the facts pleaded in the writ petition and the documents relied upon by the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for sea service due to dilated cardiomyopathy (heart muscles disease). As a result, the Shipping Department of the Government of India issued an order on 12.4.2011 cancelling the registration of the appellant as a seaman. A copy of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation. It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the District of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar. Admittedly, appellant was suffering from serious heart muscles disease (Dilated Cardiomyopathy) and breathing problem which forced him to stay in native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together, a part or fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disentitling him from disability compensation."

5. The aforesaid decision is not applicable to the facts of the case on hand. As rightly stated by the learned counsel for the respondents, the respondent office has initiated the disciplinary proceedings against the writ petitioner at Ahmedabad and enquiry was conducted and orders have been passed by the disciplinary authority at Ahmedabad. Final orders have been passed by the Appellate Authority as early as on 05.05.2008 at Bhopal. Thereafter, the writ petitioner was transferred from Bhopal to Chennai, by transfer order dated 10.07.2012. However, the order impugned herein is dated 26.09.2007. Therefore, it is seen that the petitioner's challenge to the impugned order, after a lapse of 4 years is first of all a stale challenge. Further, the decision relied on by the counsel for the petitioner is not at all applicable to the facts of the present case. Hence, the writ petition is liable to be rejected for want of jurisdiction as no cause of action arises in the territorial jurisdiction of this court.

6. In the result, the writ petition is dismissed for want of jurisdiction. It is for the petitioner to approach the appropriate forum seeking remedy. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

nvsri

To

1. The Chief General manager,
National Bank for Agricultural &
Rural Development Bank, (NABARD)
Tamil Nadu Regional Office,
No.48, (old-105/106)
Mahatma Gandhi Road,
Post Box No.6074,
Chennai-600 034.

2. The Chief General Manager
& Computer Authority,
NABARD Tower,
Opp. Municipal Garden,
Usmanpura,
Ahamedabad-380013.

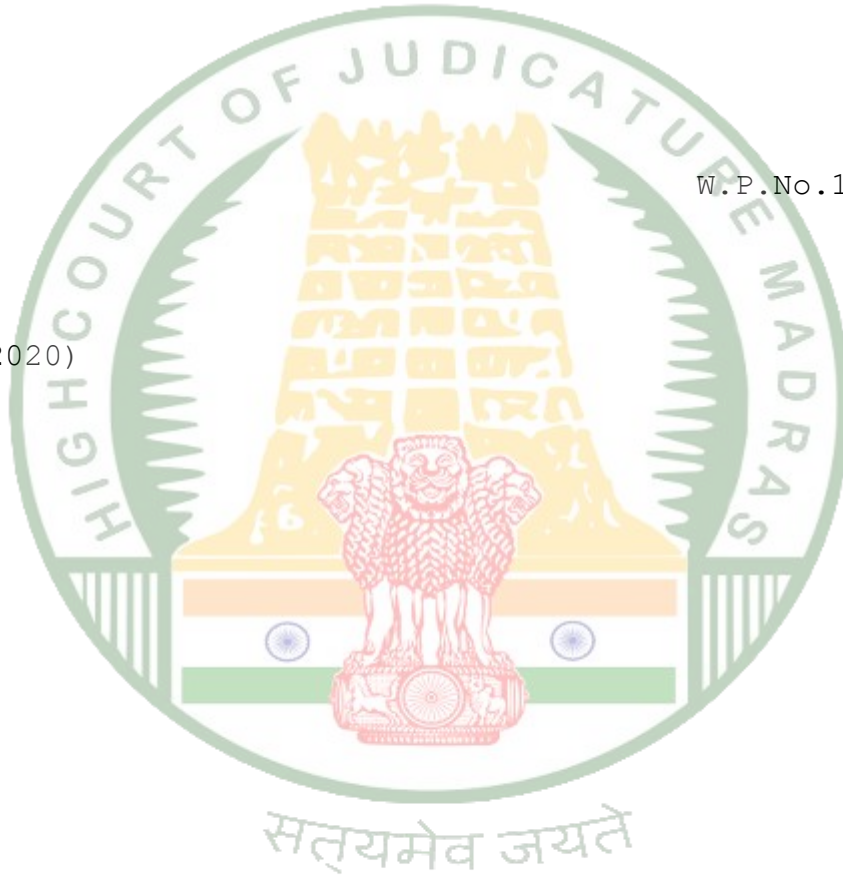
3. The Managing Director
& Appellate Authority,
NABARD Head Office,
No.C-24, G-Block,
Bandra Kurla Complex,
Bandra (East)
Mumbai-400 051.

+1 CC to Mr.K.Sukumaran, Advocate sr 96675.

+1 CC to M/s.A. Sumathy, Advocate sr 96521.

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NMI (CO)
SP(17/02/2020)



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