IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Cont.P.No. 316 of 2019

N.Ratnakumar Raju ... Petitioner

Vs.

Mr.D.Dhanraj
Chairman, Disciplinary Authority,
Pallavan Grama Bank, Head Office,
No.6, Yercaud Road, Hasthampatti, Salem-636007.
... Respondent

Prayer: The Contempt Petition has been filed under Section 11 of Contempt of Courts Act, 1971, pleased to punish the respondent herein for committing contempt of court by willfully disobeying the order passed by this Hon'ble Court dated 13.02.2018 made in WP.No.9048 of 2010.

For Petitioner : Mr.K.M.Ramesh
For Respondent : Mr.M.Sridhar
for M/s.L.Jayakumar & Associates

O R D E R

The Writ Petition No.9048 of 2010 has been disposed of by an order dated 13.02.2018 by passing the following orders:-

"The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Certiorarified Mandamus, calling for the records from the files

of the 1st and 2nd respondents pertaining to their impugned order bearing PGB/VIG/PUN/SPKGH ORDR/2/2009-10 dated 27.10.2009 imposing the punishment of #Removal from Service# and the appellate authority's order bearing No.PGB/APPEAL/SPKORDER/125/2009-10, dated 03.03.2010 respectfully and to quash the same and consequently to direct the Respondents to reinstate the Petitioner in service with continuity of service, with backwages and with all other attendant and consequential benefits."

2. The petitioner joined in the Respondent Bank as Probationary Officer on 15.04.1998. He was placed under suspension on the basis of certain irregularities committed by him while he was working as Manager of Cuddalore Branch by proceedings of the first respondent, dated 12.12.2007. He was also issued with charge sheet on 29.08.2008 wherein 19 Articles of charges were framed against him. The sum and substance of the charge was that he granted loans to various persons in excess of his powers. Since his explanation for the charge memo, dated 13.09.2008 was not satisfactory, an enquiry was ordered into charges.

3. On conclusion of enquiry proceedings, a report was submitted by the enquiry officer holding that all the charges except charges 8 and 10 held not proved. The petitioner was also furnished a copy of the enquiry report and submitted his explanation. The Chairman of the *bank who is the disciplinary authority, eventually passed an order of removal from service against the petitioner by proceedings dated 27.10.2009. While imposing penalty of removal from service, the Chairman has also held that charges 8 and 10 as proved, without recording his disagreement and calling for his explanation from the petitioner. As against the order of disciplinary authority, the petitioner preferred an appeal to the Board of Directors, vide appeal, dated 07.12.2009. The said appeal came to be disposed of and confirming the order of disciplinary authority. In the Board proceedings, while considering the appeal, the Chairman who passed the original order of removal from service, was present during the deliberations.*

4. The learned counsel for the petitioner would assail the order of punishment by the disciplinary authority as well as the appellate authority, viz., the Board of Directors on various grounds. However, this Court while considering the arguments advanced by the learned counsel appearing for both the petitioner as well as the respondent Bank, is of the considered view that since the Chairman who initially passed the impugned order of penalty on 27.10.2009 and the Chairman who participated in deliberation of the Board while considering the appeal before the appellate authority, the impugned order passed by the appellate authority is liable to be set aside. More over, it is also seen that the *disciplinary authority while holding the charges 8 and 10 also proved by disagreeing with the findings of the enquiry report and unilaterally held as such without calling for explanation from the petitioner. Therefore, on this ground, the conclusion of the disciplinary authority holding all the charges proved against the petitioner, is unacceptable.*

5. For the above said reason, during the pendency of the writ petition, a memo was filed on behalf of the respondents, which is extracted below:

"Without prejudice to the legal contentions raised by Respondents 1 and 2 in the above writ, the respondents 1 and 2 undertake to consider the Appeal filed by the petitioner before the 2nd Respondent and pass orders on merits once again giving full opportunity to the petitioner.

It is therefore submitted that the above writ petition may be disposed of with suitable directions after recording this Memo."

6. In view of the undertaking given by the respondent Bank, the matter is remitted back to the Disciplinary Authority at the first instance for giving opportunity to the petitioner in regard to charges 8 and 10 and in respect of other charges, the Board of Directors shall consider the appeal on merits and in accordance with law, without participation of original *disciplinary authority who passed the impugned order dated 27.10.2009. In view of the matter being remitted back to the authorities, the impugned orders are set aside. It is open to the disciplinary authority as well as the appellate authority to pass appropriate orders as indicated above by giving opportunity to the petitioner and this direction shall be complied with by the authorities, within a period of three months from the date of receipt of a copy of this order.*

7. It is also made clear that the grounds raised by the petitioner shall remain intact and the same are not being adjudicated by this Court in view of disposal of the writ petition on the limited grounds as explained above.

8. With the above direction, this writ petition is disposed of. No costs."

2. The learned counsel for the respondent states that after the matter was remitted back to the authorities, the enquiry proceedings in respect of the charges 8 and 10 commenced. The petitioner has participated in the disciplinary enquiry. The hearing has concluded and the orders were reserved. Such being the case, it cannot be said that this is willful disobedience of the order dated 13.02.2018 passed in WP.No.9048 of 2010.

3. The learned counsel for the petitioner states that time is being essence of the order, the order has to be complied within a time frame stipulated by this Court. The disciplinary proceedings have been concluded, and only orders have to be passed on the enquiry. Time granted by this Court by an order dated 13.02.2008 is extended for another 3 months by which time the respondent shall positively pass the appropriate orders. In case the time limit is not adhered, it shall amount to aggravated contempt of the order of this court.

4. With these observations, the contempt petition is disposed of.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

pkn

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Smi/23/09/2019

To

1. The Chairman, Disciplinary Authority,
Pallavan Grama Bank, Head Office,
No.6, Yercaud Road, Hasthampatti, Salem-636007.

2. Board of Directors,
Pallavan Grama Bank,
Head Office,
No.6, Yercaud Road,
Hasthampatti,
Salem 636 007.