

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.43749 of 2016 and
W.M.P. Nos.37550 & 37551 of 2016

M.Umapathy

.. Petitioner

-vs-

1.Indian Overseas Bank,
rep. by its Chief Executive Officer/
MD (in charge),
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai-600 002.

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

.. Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned letter bearing No.EO/IR/8508 (MU)/IR/719/2016-17 dated 01.12.2016 issued by the second respondent and to quash the same and consequently direct the respondents to provide legal assistance to the petitioner in the departmental enquiry held against him pursuant to charge sheet dated 12.03.2014.

For Petitioner :: Mr.K.M.Ramesh

For Respondents :: Mr.K.Srinivasamurthy

ORDER

The writ petition is directed against the impugned letter bearing No.EO/IR/8508(MU)/IR/719/2016-17 dated 01.12.2016 issued by the second respondent refusing the request of the petitioner for legal assistance to assist him in the departmental enquiry with a direction to the petitioner to be present for the enquiry posted for 06.12.2016 and avail the opportunity of putting forth of the petitioner's side defence.

2.Mr.K.M.Ramesh, learned counsel appearing for the petitioner would submit that the petitioner joined the first respondent Bank on 30.10.1992 as Clerk/Shroff/Typist and on 14.06.2013, he was suspended from service in respect of the charge sheet issued to him for certain alleged acts of commission and omission, while he was serving as a Special Assistant at Sathuvachari Branch, Vellore. Therefore, the petitioner has made an application seeking permission to provide him a legal assistance as Defence Representative which has been unreasonably refused by the disciplinary authority, which is running contra to the law laid down by this Court in W.P. No.14401 of 2017 and W.P. No.4530 of 2017 dated 21.06.2017 and 13.11.2017. Since this Court has laid down the law in the above said cases permitting the petitioner to engage a lawyer to represent his claim in the domestic enquiry, this writ petition may be allowed.

3.Heavily opposing the prayer sought for in the writ petition, learned counsel for the respondents would submit that all the charges levelled against the petitioner were complicated questions of fact and law and therefore, there is no need for providing lawyer's assistance to the petitioner to conduct the enquiry before the enquiry officer. He would further submit that when the petitioner came to this Court with the W.P. No.15056 of 2014 long time back, he has miserably failed to make this prayer and as such this writ petition has been filed solely for the purpose of protracting the enquiry. Therefore, the legal assistance as claimed by the petitioner cannot be granted.

4.This Court is not inclined to espouse the contentions made by the learned counsel for the respondents. However, this Court by orders dated 21.06.2017 and 13.11.2017 in W.P. No.14401 of 2017 and W.P. No.4530 of 2017 have already considered the issue. It is necessary to extract the relevant para as follows:

"13.Further, the petitioner has been issued with an additional charge memo dated 08.06.2017 in the midst of enquiry. In any event, since the petitioner is facing enquiry with regard to the above charges and since the petitioner is due to reach the age of superannuation on 30.06.2017, the respondent bank is directed to proceed with the enquiry afresh by providing assistance of a lawyer to the petitioner, subject to the filing of an undertaking by the petitioner before the Disciplinary Authority, within three days from tomorrow (22.06.2017) to the effect that he will not raise a plea that he ceases to be an employee of the bank. It is further directed that the enquiry shall be completed by the Enquiry Officer within a period of two months and the Disciplinary Authority shall pass orders within a period of one

month from the date of receipt of the report of the Enquiry Officer. Needless to mention that the petitioner shall extend his utmost cooperation in the conduct of the enquiry. It is made clear that in the event, the petitioner fails to file an undertaking, as aforesaid, within three days from tomorrow (22.06.2017), the respondent bank is at liberty to proceed with the enquiry from the stage where the enquiry was stopped."

5. When the law is well settled in the matters of legal assistance being provided in the domestic enquiry, the apprehension made by the respondents that providing legal assistance to the petitioner in the departmental enquiry would protract the matter unnecessarily has not been accepted by this Court.

6. Learned counsel for the petitioner submitted that the Enquiry Officer may be directed to proceed with the enquiry afresh, as the Presenting Officer has proceeded behind the back of the petitioner.

7. Therefore, this Court hereby directs the Enquiry Officer to proceed with the enquiry afresh and complete the same within a period of four weeks from the date of receipt of a copy of this order and the Disciplinary Authority shall complete the entire proceedings by passing a final order within a period of four weeks thereafter.

8. Needless to mention that the petitioner shall co-operate with the enquiry Officer.

9. Accordingly, the writ petition stands allowed. Consequently, connected W.M.Ps. are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vga

To

1. The Chief Executive Officer/
MD (in charge),
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai-600 002.

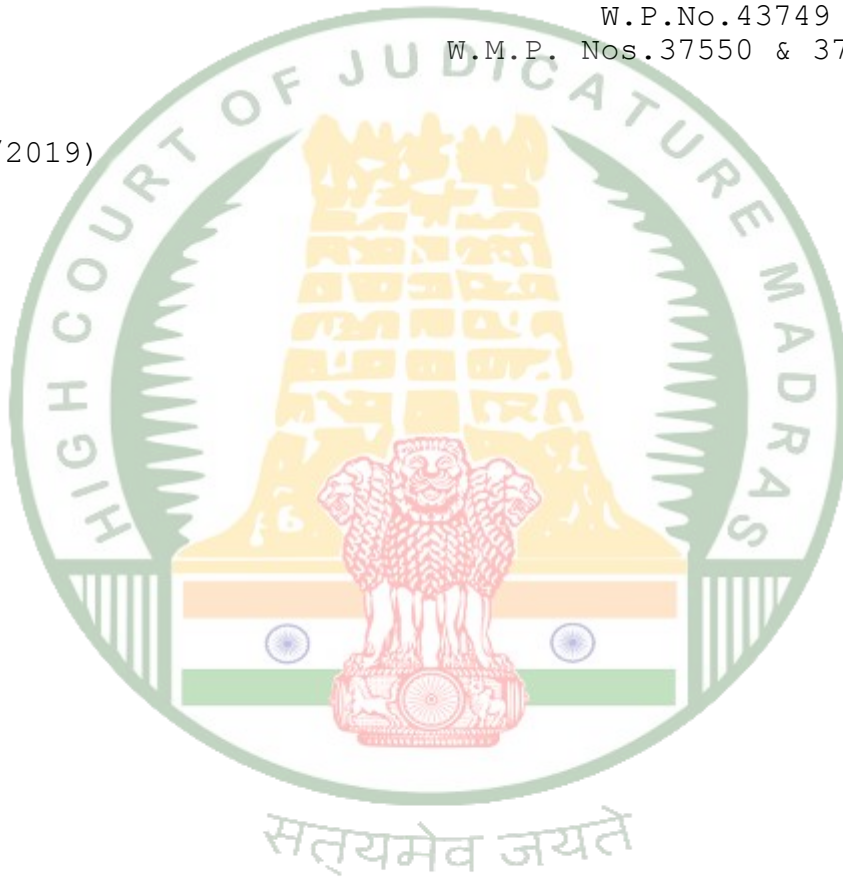
2.The Chief Manager/
Disciplinary Authority,
CDA Cell, Indian Overseas Bank,
Central Office, Anna Salai,
Chennai-600 002.

+1cc to Mr.K.M.Ramesh, Advocate SR.No.2001

+1cc to M/s.Row & Reddy, Advocate SR.No.1372

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W.M.P. Nos.37550 & 37551 of 2016

SPD(CO)
GMY(05/02/2019)



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