



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.18170 of 2019 and
W.M.P.Nos.17535 & 17538 of 2019

Ramasamy

... Petitioner

Vs.

1.The Chief Manager/Disciplinary Authority,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai.

2.The Enquiry Officer,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings dated 27.05.2019 issued by the 2nd respondent herein and quash the same and to consequently forbear the respondents from holding the disciplinary proceedings with respect to Charge Sheet dated 15.05.2017 and additional Charge Sheet dated 08.06.2017 without first producing the documents sought for by the petitioner vide his letter dated 11.09.2017, affidavit dated 20.09.2017 and consequently permit the petitioner to cross-examine the MW8 and MW9.

For Petitioners : Mr.V.Vijay Shankar
For M/s.Swarnam J Rajagopalan

ORDER

The petitioner was employed as Special Assistant in the respondent Bank. He was placed under suspension on 14.08.2015 and thereafter, a charge memo was issued to him on 15.07.2017. An F.I.R. was registered by the Central Bureau of Investigation on 30.07.2015 against the petitioner. The Department has also issued a charge memorandum, five charges framed against him at first instance dated 15.05.2017 and on the second instance on 08.06.2017 as many as 12 articles of charges were framed. All



the charges relate to receipt of bribe by the petitioner by misusing his position as Union Leader. The charge memos issued against the petitioner dated 15.05.2017 and 08.06.2017 are put to challenge in the present writ petition.

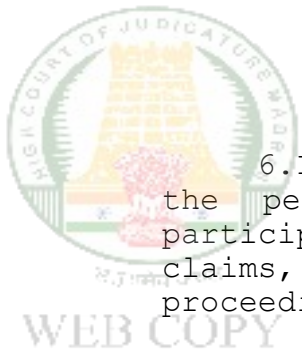
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2.Mr.Vijay Shankar, learned counsel for the petitioner would submit that the charge memoranda are unsustainable in law and the disciplinary action ought not to be proceeded against him, since the petitioner has not been furnished with the copies of the documents relied on by the prosecution. Moreover, according to him, principles of natural justice have not been adhered to while the disciplinary action against him. According to him, he was being victimised since he happened to be the Union Leader in the Trade Union. According to him, he has been fighting against the respondent Bank on several issues and therefore, in order to wreck vengeance on him, the management has initiated disciplinary action against him with mala fide intention. In the said circumstances, this Court intervention is sought even at the stage of issuance of charge memo.

3.Although several grounds have been raised while assailing the charge memorandum issued against the petitioner, this Court is unable to accept any of the grounds raised in the writ petition, which is materially enough and justify for this Court to intervene at the stage of issuance of charge memo. Although it is pleaded about the victimisation of the petitioner, nothing can be presumed at the present stage unless the disciplinary action which is set in motion by issuance of the charge memo which alone has to proceed to its logical end.

4.A challenge to the charge memorandum cannot be successfully maintained unless some grave violation of principles of natural justice or the initiation of disciplinary action itself suffers from any blatant bias or jurisdictional error. In this case, no such inference could be drawn even remotely on the basis of self serving averments of the petitioner. Moreover, the charges levelled against the petitioner which are extremely serious in nature and required a proper enquiry and the same cannot be scuttled by this Court at the very initial stage of disciplinary action.

5.The argument that the documents have not been furnished to the petitioner cannot be the sole basis for this Court to interfere at the present stage. The order passed by the enquiry authority, setting the petitioner ex parte is because of the conduct of the petitioner as he approached this Court at every stage of the disciplinary action without allowing the enquiry to proceed further. The petitioner having invited such order, cannot choose to complain against the Enquiry Officer or the Disciplinary Authority about he being set ex parte or not following the principles of natural justice.



6. In the fitness of things, this Court is of the view that the petitioner may respond to the charge memorandum and participate in the enquiry and in case, he is innocent as he claims, he can always come out unscathed from the enquiry proceedings.

7. Certainly, it is not open to the petitioner to put spokes on the wheels of departmental enquiry and scuttle the same at the very threshold. The charges that have been framed against the petitioner are part of the larger scam of fraudulent employment being obtained by several hundred persons in the Bank. In view of the magnitude of the charges which are part of the larger scam, the petitioner cannot be allowed to scuttle the process of due enquiry in terms of the disciplinary action initiated against him.

8. For the above said reason, this Court finds that the writ petition is not only premature but also not maintainable and hence, the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Chief Manager/Disciplinary Authority,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai.

2. The Enquiry Officer,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai.

+1cc to M/s. Swarnam J Rajagopalan, Advocate sr.54570

W.P.No.18170 of 2019

rgn(co)
nr 22/08/2019