

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU
Writ Appeal No. 1274 of 2017

&

C.M.P. No. 17810 of 2017

R. Saratha

..Appellant

Vs.

General Manager,
Disciplinary Authority,
Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai - 600 002. ...Respondent

Prayer: Writ Appeal as against the order dated 02.08.2017 in
W.P. No. 29568 of 2015.

WP.NO.29568/2015:

Writ filed to issue a Writ of Certiorari or any other
appropriate Writ or direction to call for the records on the
file of the respondent in Memorandum of Allegations and Articles
of Charge DO:DA:GM (KVK):VIG: 8523/ 8532/ 8450/2299 dated
6.7.2015 and quash the same as illegal, incompetent and without
jurisdiction.

For Appellant :: Mr.Jerry V.V. Sundar

For Respondent :: Mr.K. Srinivasamurthy

J U D G M E N T
सत्यमेव जयते

(Judgment of the Court was delivered by K.K. SASIDHARAN, J.)

The respondent initiated disciplinary proceedings against
the appellant by issuing a charge memo dated 06.07.2015. She is
also an accused in a case registered by the Central Bureau of
Investigation. The appellant filed the writ petition in W.P.
No. 29568 of 2015 challenging the charge memo. The writ
petition was dismissed by order dated 02.08.2017. The said
order is challenged in the present appeal.

2. This Court passed an interim order dated 13 October
2017 permitting the Disciplinary Authority to proceed with the
enquiry. However, the authority was restrained from passing

final orders without the specific orders of this Court.

3. When this appeal came up on 13 March, 2019, the learned counsel for the Bank, on instructions, submitted that the Bank has already concluded the enquiry and is awaiting orders from this Court for passing final orders. However, the learned counsel for the appellant submitted that the appellant was not given an opportunity to cross-examine the witnesses. The learned counsel for the Bank in his reply submitted that due opportunity was given to the appellant to appear before the enquiry officer and cross-examine the witnesses. However, the appellant, under one pretext or the other, failed to appear before the enquiry officer and that was the reason for closing the enquiry after examining the witnesses.

4. The course of conduct adopted by the appellant shows that she has been taking time without co-operating with the enquiry officer. We therefore passed the following order on 13 March, 2019 directing the appellant to indicate the date on which she would cross-examine the witnesses in case, the enquiry is re-opened:

"This Court passed an order dated 13.10.2017 permitting the respondent to proceed with the enquiry. However, the respondent was restrained from passing final orders.

2. It is the grievance of the respondent that the appellant has not been co-operating for an early disposal of the matter and she has been taking time under one pretext or the other.

3. According to the learned counsel for the respondent, the enquiry has already been completed and in view of the interim order passed by this Court, the Bank is not in a position to pass final orders.

4. The learned counsel for the appellant submitted that on account of certain difficulties, the appellant could not appear before the enquiry officer and in case, a date is fixed, she would appear before the enquiry officer and cross-examine all the witnesses.

5. Let an affidavit be filed by the appellant by 15.03.2019 indicating the above with a clear undertaking that she would appear before the enquiry officer and cross-examine all the witnesses without seeking adjournment."

5. The appellant has filed an affidavit dated 13 March, 2019 indicating that in case, a specific date is given, she would come over to Chennai for cross-examining the witnesses.

6. The affidavit dated 13 March, 2019 is taken on record.

7. The learned counsel for the Bank, on instructions, submitted that the Bank would re-open the enquiry and it would be posted at 11 a.m. on 2 April, 2019. The venue of enquiry would be the Central Office at Mount Road, Chennai.

8. The learned counsel for the appellant submitted that the appellant would appear before the enquiry officer on 2 April, 2019 and she would cross-examine the witnesses without seeking adjournment.

9. The Bank appears to have proceeded with the enquiry after rejecting the request made by the appellant for adjournment. Now that the Bank has agreed to re-open the enquiry so as to give an opportunity to the appellant to cross-examine the witnesses, there is no purpose in keeping this appeal pending.

10. We direct the appellant to appear before the enquiry officer at 11a.m. on 2 April, 2019 as indicated earlier. The appellant must cross-examine the witnesses who will be present on the date of enquiry. In case, the enquiry is not completed on the said date, it would be posted on the succeeding day so as to enable the Bank to conclude the entire proceedings. It is also open to the Bank thereafter to pass appropriate orders after giving a reasonable opportunity to the appellant in accordance with the service regulations framed by the Indian Overseas Bank.

11. The intra-court appeal is disposed of with the above direction. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

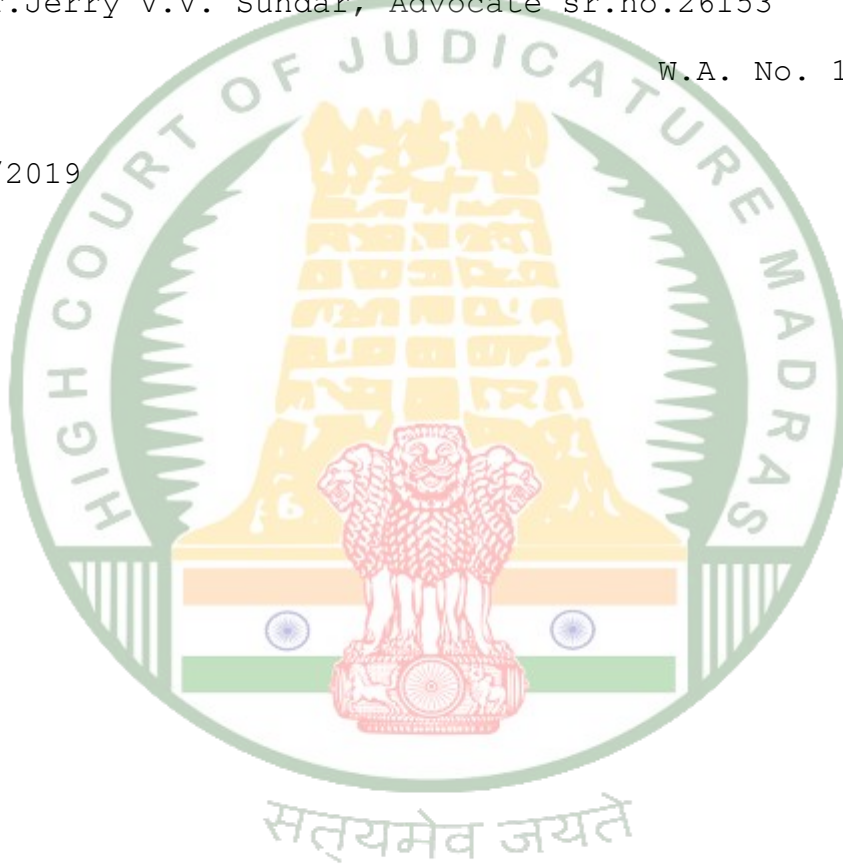
General Manager,
Disciplinary Authority,
Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai - 600 002.

+lcc to Mr.N.G.R.Prasad, Advocate sr.no.26493

+lcc to Mr.Jerry V.V. Sundar, Advocate sr.no.26153

W.A. No. 1274 of 2017

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