



WEB COPY

W.A.(MD)No.1268 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1268 of 2019

and

C.M.P. (MD)No.10841 of 2019

1.The General Manager,
State Bank of India,
Local Head Office,
Circle Top House,
No.16, College Lane,
Chennai-600 006.

2.The Regional Manager (RBO-V),
State Bank of India,
Regional Business Office,
No.24, GKN Building,
North Car Street,
Nagercoil-629 001.

3.The Branch Manager,
State Bank of India,
Vivekanandapuram Branch,
Nagercoil,
Kanyakumari District.

... Appellants/Respondent

Vs.

S.Raja

.. Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 04.11.2019 made in W.P.(MD) No.19413 of 2018 on the file of this Court and thereby allow this appeal.

Prayer in WP(MD). 19413/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, after calling for the records of 2nd respondent pertaining to his proceedings in RM V-DIS.CON and QUASH the order dated 21.8.2018 and consequently direct the respondents to permit the petitioner to engage service of an Advocate of his choice to defend himself in pending disciplinary enquiry in pursuant to the charge memo dated 22.11.2017.



For Appellants
For Respondent

: Mr.S.Sethuraman
: Mr.A.R.L.Sundaresan
Senior Counsel for Mr.S.Suresh

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JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

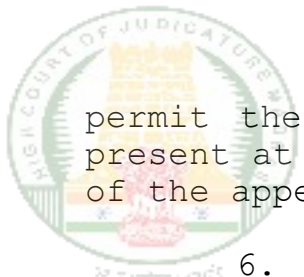
Heard Mr.S.Sethuraman, learned counsel for the appellants and Mr.A.R.L.Sundaresan, learned Senior Counsel for Mr.S.Suresh, learned counsel for the respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal by the State Bank of India is directed against the order, dated 01.11.2019 made in W.P.(MD)No.19413 of 2018. The respondent filed the writ petition challenging the proceedings of the second appellant, dated 21.08.2018, by which the request made by the respondent / writ petitioner to engage an Advocate to defend him in the disciplinary enquiry was rejected.

3. The learned Single Bench, after taking note of the factual position as well as certain decisions on the point, opined that the respondent / writ petitioner is entitled to engage an Advocate to assist him in the Domestic enquiry. The opinion so recorded was on account of the fact that charge against the writ petitioner involves certain technical aspects.

4. In our considered view, considering the peculiarity of the facts and circumstances of the case, we find no good ground to interfere with the order passed by the learned single Bench. It needs to be pointed out that since the matter involves technicalities, there are every possibility of other witnesses being examined by the appellant Management in respect of the charge and those witnesses will have to be made available for cross-examination by the respondent. The respondent / writ petitioner is cashier in the appellant Bank and obviously not legally trained person. Since, examination of witnesses and cross examination of witnesses are to be done and documents to be exhibited on either side, we are of the view that ends of justice would be met if the respondent / writ petitioner is permitted to have the assistance of an Advocate.

5. Having stated so, we are also conscious of the fact that the appellants, more particularly the respondents 2 and 3 are also not legally trained persons and the Presenting Officer of the Bank will be present, who is acquainted with the facts and circumstances of the case. Thus, to balance the interest of both the parties, we



permit the Presenting Officer of the appellant Bank, who will be present at the time of Disciplinary Proceedings, to present the case of the appellants to have the assistance of an Advocate.

6. Thus, while affirming the order of the learned writ Court, we permit the Presenting Officer of the appellant Bank, who will be present at the time of disciplinary proceedings to have the assistance of an Advocate. With the above observation, this writ appeal stands disposed of. The time frame fixed by the learned Single Bench, is slightly modified and the appellants are directed to conclude the disciplinary proceedings within a period of three months from the date of receipt of a copy of this judgment. Needless to state that the respondent / writ petitioner should cooperate for early conclusion of the disciplinary proceedings.

7. At this juncture, the learned counsel for the appellant submitted that the decision relied by the learned Single Bench in W.P.No.8407 of 2015, dated 06.06.2016 [***S.Viswananthan Vs. State Bank of India and others***] was confirmed by the Hon'ble Supreme Court of India in the SLP filed by the State Bank of India in C.No.35443 of 2016 and the said SLP was dismissed on 23.01.2017. The learned counsel for the appellants submitted that the factual position of the said case was different and the decision will have no application to the case on hand. In any event we have balanced the interests of both the parties. Therefore, we leave this issue open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

+1 CC to M/s.S. SETHURAMAN, Advocate (SR-100904[F] 25/11/2019)
+1 CC to M/s.S. SURESH, Advocate (SR-101224[F] dated 26/11/2019)

ORDER MADE IN
W.A.(MD)No.1268 of 2019
25.11.2019

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SDS/11.12.2019/3P/3C