

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.17507 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue Writ or order particularly one in the nature of Writ of Mandamus declaring the action of respondent No.3 in issuing impugned Proceedings in Rc.No. Estt/ Emp-23454/ 2019-20 dated 10.07.2019 as arbitrary, illegal and violative of provisions under Service Regulations of the respondent Bank and also violative of Articles 14, 16 and 21 of the Constitution of India and set aside the same and consequently issue a direction to the respondents to grant all consequential benefits....”.

Heard Smt.M.Shalini, learned counsel for petitioner and Sri V.Brahmaiah Chowdary, learned Standing Counsel for respondents.

It has been contended by the petitioner that he is working as Branch Manager, Nalgonda District Co-operative Central Bank Limited, Kondamallepalli Branch, and while discharging duties, the respondents have issued charge memo on 05.02.2019 alleging certain irregularities in respect of transactions pertaining to gold loans. The petitioner has submitted an explanation. Not satisfied with the explanation submitted by the petitioner, the disciplinary authority has initiated disciplinary proceedings by appointing an Enquiry Officer to conduct detailed enquiry. Though the Enquiry Officer has submitted a report stating that some of the charges are proved, the disciplinary authority has not furnished the said enquiry report to the petitioner and straight away has come to a conclusion to terminate the services of the petitioner. Accordingly, the impugned show-cause notice dated 10.07.2019 has been issued.

Learned counsel for petitioner submits that the action of the disciplinary authority in issuing show-cause notice of termination even before furnishing enquiry officers report and even before the petitioner could submit objections to the enquiry officer's report is illegal and arbitrary and the same is contrary to the law laid down by the Hon'ble Supreme Court in *Managing Director, ECIL, Hyderabad Vs. B.Karunakaran and others*¹. Therefore, the impugned show-cause notice is liable to be set aside.

Learned Standing Counsel appearing for the respondents has contended that the enquiry officer's report is furnished to the petitioner, after issuance of impugned show-cause notice, on 01.08.2019. The petitioner can always submit his objections to the said enquiry officer's report and no prejudice is caused to the petitioner. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the impugned show-cause notice of termination is issued without furnishing enquiry officer's report to the petitioner. The enquiry officer's report has to be furnished to the petitioner and only after giving an opportunity to the petitioner to file his objections, the disciplinary authority should pass appropriate orders by taking into account the objections raised by the petitioner. But, in the instant case, the disciplinary authority has already come to a conclusion in the form of show-cause notice dated 10.07.2019, wherein a decision was taken by the disciplinary authority to terminate the services of the petitioner. After

¹ 1993 (4) SCC 727

prejudging the issue of terminating the services of the petitioner and thereafter furnishing enquiry officer's report would not serve the purpose of fairness. Issuance of show-cause notice after coming to a conclusion of imposition of punishment of termination is only an empty formality. Therefore, the impugned show-cause notice dated 10.07.2019 is liable to be set aside, as it is contrary to the law laid down by the Hon'ble Supreme Court referred supra and it is accordingly set aside.

Since the respondents have furnished enquiry officer's report to the petitioner on 01.08.2019, the petitioner is given liberty to file his objections to the enquiry officer's report within two weeks from the date of receipt of a copy of this order and thereafter, it is always open for the disciplinary authority to proceed against the petitioner in accordance with law.

After dictating this order, learned counsel for the petitioner has contended that the petitioner has raised several issues including the competency of the authority, who issued show-cause notice. However, those issues are not adjudicated in the instant writ petition and it is always open for the petitioner to raise all those issues at appropriate time.

With the above observations, the writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 22-08-2019
Prv

