

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. NO. 19834 OF 2013

R.Radhakrishnan

..Petitioner

... Vs ...

1. Canara Bank,
Rep. by its Deputy General Manager,
(Disciplinary Action Cell),
Circle Office,
524, Anna Salai, Teynampet,
Chennai - 600 018.

2. The Assistant General Manager,
(Disciplinary Action Cell),
Circle Office,
524, Anna Salai, Teynampet,
Chennai - 600 018.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the first respondent to consider and dispose of petitioner's representation dated 05.04.2013 in accordance with Regulation 10 and 11 of the Canara Bank Service Code and in accordance with law within a time frame.

For Petitioner : Mr.K.M.Ramesh
For Respondents : Mr.C.Seethapathy

ORDER

The petitioner has filed the present writ petition praying for the issuance of a Writ of Mandamus, directing the first respondent to consider and dispose of the petitioner's representation dated 05.04.2013 in accordance with law within a time frame.

2. It is the case of the petitioner that he is employed as Sub-staff in Canara Bank. While in service, the petitioner was subjected to departmental action for certain alleged misconduct

and was imposed with a punishment of stoppage of increment for a period of two years with cumulative effect. As against the said punishment, the petitioner preferred appeal before the Appellate Authority, which was rejected and challenging the said order passed by the Appellate Authority, the petitioner filed a writ petition before this Court in W.P.No.4902 of 1989 and this Court, by its order dated 18.06.1998, allowed the said writ petition. Aggrieved by the said order, the respondent therein filed a writ appeal in W.A.No.985 of 1988 and this Court has allowed the said writ appeal by its order dated 07.09.07. Thereafter, the petitioner filed a review application in R.A.No.29 of 2009 to review the order passed in W.A.No.985 of 1988. The said review application was disposed of by order dated 12.03.2013 granting liberty to the petitioner to file representation with regard to the order of punishment which was directed to run separately. Immediately, thereafter, the petitioner made a representation to the first respondent which has not been disposed of till date. Hence, the petitioner has filed the present writ petition before this Court seeking a direction to the respondent to consider the said representation.

3. During the pendency of the writ petition, the respondent Bank considered the representation filed by the petitioner and rejected the same, which prompted the filing the amendment petition in M.P.No.1 of 2013 by the petitioner and this Court by its order dated 04.06.2016 allowed the said petition and amended the prayer.

4. Learned counsel appearing for the petitioner submits that though the punishment was imposed by the Appellate Authority, which was confirmed by the Division Bench of this Court, however, on review, the Division Bench permitted the petitioner to make a representation to the limited extent as to whether the punishment imposed on the petitioner should run concurrently or separately. However, without deciding that issue, mechanically the respondent rejected the petitioner's representation on 17.07.2013 on the ground that the punishment imposed on the petitioner has attained finality vide the order of the High Court confirming the same and, therefore, the same does not call for any interference. It is the submission of the learned counsel for the petitioner that the respondents have not taken into consideration the direction of the High Court to the petitioner to submit a representation and the further direction to the respondents to consider the same and pass orders. The mechanical way in which the order has been passed by the respondents, without adverting to the merits of the issue projected by the petitioner, requires interference at the hands of this Court.

5. Per contra, learned counsel appearing for the respondents submit that the order passed by the disciplinary authority stood confirmed by the appellate authority and though the said order was interfered with by the High Court in the writ petition, however on appeal, the same was held in favour of the respondents and, therefore, for all purposes, the order of the respondents has attained finality. The mere grant of liberty to the petitioner to file a representation to the respondents for consideration as to the way in which the punishment would run, viz., whether concurrently or separately, would not clothe any right on the petitioner to put the issue once over before this Court by way of this writ petition.

6. This Court gave its anxious consideration to the contentions advanced by the learned counsel on either side and also perused the materials available on record.

7. The facts in issue are not in dispute. It is equally not in dispute that the earlier round of litigation culminated in the affirmation of the punishment imposed on the petitioner. However, in the review application filed by the petitioner against the said confirmation, it is seen that the Division Bench had merely granted liberty to the petitioner to approach the respondents to try his luck as to whether the punishment imposed, which has been directed to run separately could be reviewed in favour of the petitioner. That it only a life line given to the petitioner to try his luck before the respondents and that the said liberty cannot in any way be taken advantage of by the petitioner to institute a second round of litigation against the same set of facts, which has already reached finality. Permitting the petitioner to once again reagitate the case would be against the very spirit of the order passed by the Division Bench in the writ appeal as also in the review application. The petitioner cannot be permitted to misuse the opportunity given to him by instituting another round of litigation, which if permitted, would only frustrate the order passed by the Division Bench in the earlier round of litigation. Therefore, this Court is not inclined to acceded to the prayer as sought for by the petitioner.

8. It is submitted by the respondents that pending the writ petition, the petitioner superannuated on 30.4.17 and has also received the entire retirement benefits without demur. The said statement is taken on record.

9. For the reasons aforesaid, this Court is not inclined to entertain this petition as the same is misconceived and not maintainable and, accordingly, the same is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy General Manager,
Canara Bank(Disciplinary Action Cells)
Circle office, 524, Anna Salai, Teynampet, Ch-18.

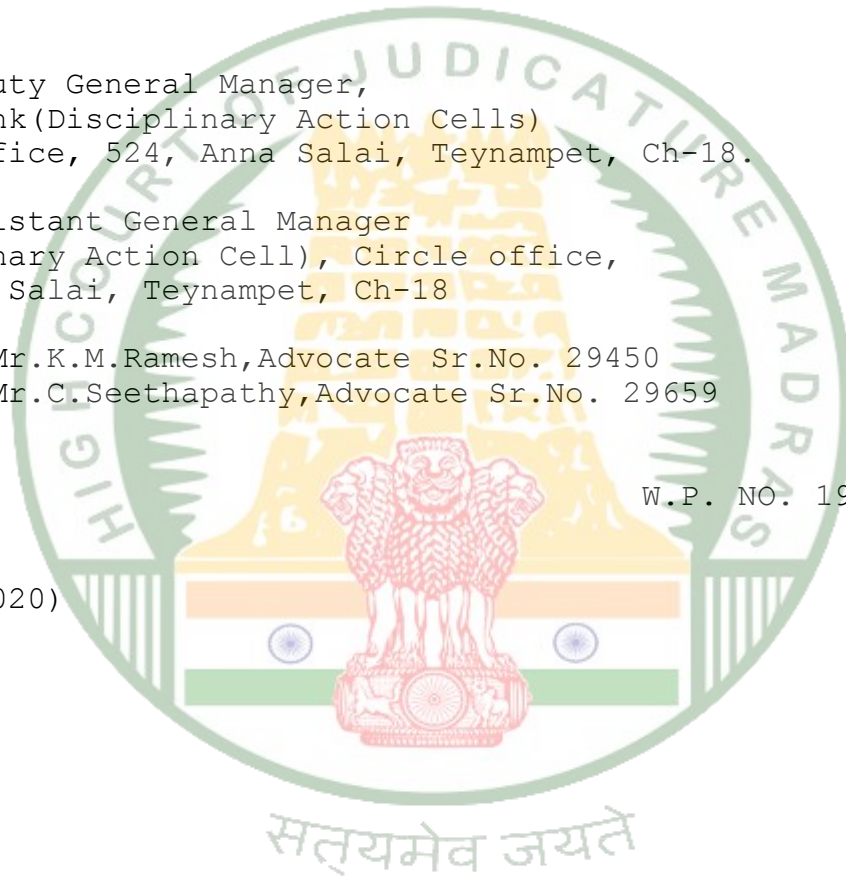
2.The Assistant General Manager
(disciplinary Action Cell), Circle office,
524, Anna Salai, Teynampet, Ch-18

+1 cc to Mr.K.M.Ramesh,Advocate Sr.No. 29450

+1 cc to Mr.C.Seethapathy,Advocate Sr.No. 29659

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