

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.1545 of 2019
and CMP.No.10609 of 2019

(Through Video Conferencing)

1.The Managing Director & Chief
Executive Officer/Appellate Authority,
Indian Overseas Bank,
763, Anna Salai, Chennai 600 002.

2.The Disciplinary Authority/General Manager (NKG),
Indian Overseas Bank,
763, Anna Salai, Chennai 600 002.

... Appellants/Respondents

vs.

S.Ganapathy ... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 10.01.2019 passed by the learned Single Judge in W.P.No.32232 of 2018.

Prayer: Praying to issue a writ of certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in No.DO.VIG.GM.NKG.DA.7603.4289.2013-2014 dated 30.10.2013 as confirmed by the order of the 1st Respondent in DO.AA.MD and CEO.VIG. 7603.2595.2018-19 dated 30.6.2018 and to quash the same and consequently direct the Respondents to reinstate the petitioner into service with all consequential and other attendant benefits

For Appellants : Mr.K.Srinivasa Murthy

For Respondent : Mr. P.Sukumaran
for Mr.A.Raja Perumal

J U D G M E N T

C.SARAVANAN, J.

The appellants are aggrieved by the impugned order dated 10.01.2019 passed by the learned Single Judge in W.P.No.32232 of 2018. The said writ petition was disposed.

2. By the impugned order, the learned Single Judge has quashed impugned orders dated 30.10.2013 as confirmed by the order of the 1st appellant in their order dated 30.6.2018 and has further directed reinstatement of the respondent/petitioner to services with consequential and other attendant benefits.

3. The respondent was serving as a Manager with the 1st appellant bank and was subjected to a disciplinary proceeding. About 26 different charges were framed against the respondent and in this connection a charge sheet dated 23.4.2012 was issued to the respondent.

4. In the above disciplinary proceeding, the General Manager was appointed as the Disciplinary Authority though such for a Scale II and scale III employees, only Deputy General Manager is the Disciplinary Authority designated under the provisions of Indian Overseas Bank Officer Employees' (Discipline and Appeal) Regulations, 1976.

5. The said disciplinary proceeding culminated in an order dated 30.10.2013 of the said Disciplinary Authority. Aggrieved by the order dated 30.10.2013 the Disciplinary Authority, the respondent preferred an appeal before the Appellate Authority. The Appellate Authority dismissed the appeal preferred by the respondent vide order dated 8.5.2014.

6. Aggrieved by the said order dated 8.5.2014 of the Appellate Authority, the respondent challenged the same in W.P.No.15462 of 2014 before this Court.

7. In the said writ petition, the respondent had challenged the jurisdiction of the said Disciplinary Authority in passing the said order dated under 30.10.2013 dismissing the respondent from service. Parallely, criminal proceedings were also initiated against the respondent which have culminated in the criminal proceedings being dropped against the respondent and the respondent was discharged.

8. Vide order dated 31.8.2016 in W.P.No.15462 of 2014, the learned Single Judge while upholding the jurisdiction of the said Disciplinary Authority, remitted the case back to the Appellate Authority to consider letter dated 17.4.2014 submitted by the respondent to the Appellate Authority.

9. The Appellate Authority, thereafter passed a fresh order dated 30.6.2018 and upheld the order dated 30.10.2013 passed by the said Disciplinary Authority. It is the said order passed by the Appellate Authority, which came to be impugned in W.P.No.32232 of 2018 before the learned Single Judge.

10. As mentioned the above, the learned Single Judge had quashed impugned orders dated 30.10.2013 as confirmed by the order of the 1st appellant vide order dated 30.6.2018 and has further directed reinstatement of the respondent/petitioner to services with consequential and other attendant benefits.

11. Though elaborate submissions were made by the learned counsel for the appellants and the respondent, we are inclined to set aside the impugned order dated 10.01.2019 passed by the learned Single Judge in W.P.No.32232 of 2018 in the facts and circumstances of the case since the order dated 30.10.2013 came to be passed by the General Manager as the Disciplinary Authority contrary to the provisions of the Indian Overseas Bank Officer Employees' (Discipline and Appeal) Regulations, 1976. As per the aforesaid Regulations, only the Deputy General Manager is the competent Authority to act as the Disciplinary Authority for an employee holding Scale II and III post.

12. In our opinion, the appointment of the General Manager as the Disciplinary Authority by the appellants was not proper. The said procedure was not in accordance with the provisions of the aforesaid Regulations since each of the disciplinary proceedings were conducted separately and evidence were also recorded separately in each of the disciplinary proceedings. Merely because other senior officers/higher-ups were also subjected to similar disciplinary proceedings and therefore to bring uniformity in the disciplinary proceeding was just not enough.

13. Further, it appears that the documents were marked in the absence of the respondent before the Disciplinary Authority.

14. We are also convinced with the order of the learned Single Judge ordering reinstatement of the respondent together with attendant benefits. Considering the gravity of the charges levelled against the respondent, we are inclined to set aside the order of the learned Single Judge reinstating the respondent.

15. Therefore, the impugned order dated 10.1.2019 in W.P.No.32232 of 2018 passed by the learned Single Judge is set aside and the case is remitted back to the Disciplinary Authority namely, the Deputy General Manager to pass

appropriate order in accordance with the provisions of the Indian Overseas Bank Employees (Discipline and Appeal) Regulations, 1976. Such order shall be passed after affording an opportunity to the respondent to cross-examine all the witnesses examined on behalf of the Appellant-Bank and in accordance with law.

16. The Disciplinary Authority namely, the Deputy General Manager to be nominated by the 1st appellant shall pass appropriate order within a period of four months from date of receipt of copy of this order considering the fact that the respondent will attain the age of superannuation during the next financial year. The respondent is also directed to co-operate with the appellants and the Disciplinary Authority namely, Deputy General Manager in the denova proceeding.

17. The present writ appeal stands disposed with the above observation. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Managing Director & Chief

Executive Officer/Appellate Authority,
Indian Overseas Bank,
763, Anna Salai, Chennai 600 002.

2.The Disciplinary Authority/General Manager(NKG),
Indian Overseas Bank,
763, Anna Salai, Chennai 600 002.

+1cc to M/s.N.G.R.Prasad, Advocate SR.30377

W.A.No.1545 of 2019
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SAI(CO)
CB(15/10/2020)