

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7576 of 2020

M.R.Govindaraji

.. Petitioner

-vs-

1. The General Manager (NW1)
and Appointing Authority
State Bank of India
Local Head Office
Circle Top House, 7th Floor
16, College Lane
Nungambakkam, Chennai 600 006
2. The Deputy General Manager (B&O)
Disciplinary Authority
State Bank of India-Administrative Office
'Chinnaiyan Towers', 120/2 & 120/3,
Cherry Road, Salem 636 007.
3. The Regional Manager (RBO-IV)
State Bank of India
No.1-B, Old Bangalore Road
Gowri Shankar Hotel Complex
Hosur 635 109.
4. Assistant General Manager
Enquiry LITO, (Vigilance Department)
State Bank of India
Chennai 600 001
5. The Branch Manager
State Bank of India
A Mullapuram Branch- 636 806

.. Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent Proceeding No.DGM (B&O)/GB/5893 dated 17.03.2020 and Proceeding No.VIG/SP/37 dated 20.03.2020 issued by the first respondent, quash the same and to issue consequential directions to the second respondent to call for petitioner's further statement of defence on receipt of the relevant documents and to consider his defence statement dated 9.3.2020 and such further statement of defence before proceeding any further in the disciplinary proceedings initiated against the petitioner pursuant to Charge Memo No.DIS/CON/41 dated 02.05.2019 and proceed further in accordance with law.

For Petitioner :: Mr.M.Ravi for Mr.P.Kumaravel

*For Respondents :: Mr.S.Ravindran
Senior Counsel for Mr.K.Chandrasekaran*

ORDER

This writ petition has been directed against the two impugned proceedings dated 17.3.2020 issued by the second respondent and also the proceedings dated 20.3.2020 issued by the first respondent.

2. Mr.M.Ravi, learned counsel appearing for the petitioner, assailing these two impugned proceedings, argued inter alia that the petitioner was subjected to disciplinary proceedings wrongly, vide the charge memo dated

2.5.2019, without even furnishing the requisite documents, enabling him to prepare his defence to the said charge memo. Although the petitioner filed Writ Petition No.22985 of 2019 challenging the charge memo, the writ petition was dismissed, as against which Writ Appeal No.4030 of 2019 was filed unsuccessfully. The Hon'ble Division Bench, dismissing the writ appeal, vide order dated 30.1.2020, confirming the order passed in the writ petition, holding that the conclusions drawn by the learned single Judge did not suffer from any infirmities, granted liberty to the petitioner to contest the matter before the appropriate forum in accordance with law. In the said order, the Hon'ble Division Bench also observed that so far as the supply of documents is concerned, as the petitioner had already filed a separate writ petition, it is not necessary to deal with the same. When the said Writ Petition No.35543 of 2019 is still pending, the disciplinary authority ought not to have appointed the inquiry officer to probe into the correctness of the charges levelled against the petitioner, as the question whether the petitioner is entitled to receive the documents in question, is sub judice. The reason being that without even receiving the copy of the requisite documents, the petitioner is unable to submit his written defence. Secondly, the inquiry officer, even during the pendency of the writ appeal, had submitted his report dated 26.12.2019, which

was also challenged in Writ Petition No.4116 of 2020. In the meanwhile, adding fuel to fire, Mr.Ravi contended that on receipt of the inquiry report dated 26.12.2019, the Deputy General Manager/Disciplinary Authority, furnishing the copy of the report, called for written explanation from the petitioner within seven days time. Since the Writ Petition No.4116 of 2020 challenging the correctness of the inquiry officer's report has been pending for consideration, the petitioner was advised not to submit his written submission to the inquiry officer's report dated 26.12.2019. However, after dismissal of the Writ Appeal No.4030 of 2019, the petitioner was advised to submit his detailed written explanation. Accordingly, the petitioner sent his written submission on 9.3.2020, which was also received by the second respondent on 10.3.2020 and the proof of acknowledgment issued by the second respondent is also enclosed at page-80 of the typedset, therefore, the second respondent should have taken up the written submission dated 9.3.2020. But without even considering the written submission dated 9.3.2020 submitted to the inquiry officer's report, the respondents have proceeded against the petitioner by issuing the impugned proceedings dated 17.3.2020 and 20.3.2020. By the proceedings dated 17.3.2020, the Deputy General Manager (B&O)/second respondent has mentioned that since the time given to the petitioner for

submission of his defence to the inquiry report stood expired, it was construed that the petitioner had no explanation to offer. That approach of the respondents clearly would show that somehow the petitioner had to be sent out from the institution, therefore, the impugned proceedings prejudging the issue, also shows that the petitioner is being victimized before being heard. Hence, the impugned proceedings shall be quashed.

3. Per contra, Mr.S.Ravindran, learned Senior Counsel appearing for the respondents submitted that the petitioner has been departmentally prosecuted for serious charges issued against him. But the petitioner, on receipt of the charge memo, without giving any explanation in writing, prolonging the enquiry, resorted to the Court every now and then, therefore, the inquiry officer completed he inquiry. He further argued that the petitioner was also informed vide letter dated 25.2.2020 that though sufficient time was given for submission of his defence proof for the report of the inquiry officer, he had failed to utilize the same, hence, there was nothing wrong in their communication dated 17.3.2020 telling him that he had no defence to make for the report of the inquiry officer. On the basis of the same, Mr.Ravindran, learned Senior Counsel further argued that when all along, after the notice dated 31.12.2019 giving the petitioner to submit his written submission within

seven days time, the petitioner miserably failed to submit his defence, as he sent the belated written submission only on 9.3.2020, said to have been received by the office of the second respondent on 10.3.2020, it has to be construed as time barred, because that is the law. Therefore, no fault can be attributed against the respondents for not considering the representation dated 9.3.2020. Hence, for all these reasons, this writ petition is liable to be dismissed.

4. I also find some merit on the submissions made by the learned Senior Counsel appearing for the respondents. But the facts that remain to be seen also cannot be ignored. Firstly, when the petitioner has also filed a second Writ Petition No.35543 of 2019 seeking for issuance of a mandamus to the respondents to furnish the documents mentioned in the Annexure-III to the charge memo dated 2.5.2019 and the said writ petition is also pending for consideration, inquiry proceedings have been initiated with the appointment of an inquiry officer by the second respondent. The justification taken by the second respondent shows that the petitioner, after filing Writ Petition No.35543 of 2019, has not obtained any order including status quo of not to proceed with the inquiry proceedings, therefore, the respondents have proceeded on the footing that they are right in appointing the inquiry officer.

When the Writ Petition No.35543 of 2019 is pending without any order calling upon the respondents to maintain status quo, the appointment of the inquiry officer also cannot be found fault with. Further the inquiry officer also, after giving opportunities to the petitioner, submitted his report on 26.12.2019. Even the Deputy General Manager/second respondent, on receipt of the report of the inquiry officer, furnished a copy thereof to the petitioner vide letter dated 31.12.2019 calling the petitioner to submit his written representation and admittedly, during that time, two writ petitions, namely, W.P.Nos.35543 of 2019 and 4116 of 2020 have been filed and when they are still pending. the respondent-Bank, in all fairness, could have taken the same on file. In any event, when the written submission dated 9.3.2020 has been received by the office of the second respondent on 10.3.2020, no prejudice would be caused to the respondents, if a direction is issued to them to take up the representation dated 9.3.2020 for consideration and then to pass appropriate orders as per law.

WEB COPY

5. Moreover, when the Deputy General Manager/second respondent had furnished the copy of the inquiry report with his notice dated 31.12.2019 to the petitioner to submit his written defence, Writ Petition No.35543 of 2019 seeking a direction to furnish the documents mentioned in the Annexure-III to

the charge memo dated 2.5.2019 has been pending and hence the petitioner is unable to submit his detailed explanation. Although there was no interim order from the Court, the report of the inquiry officer dated 26.12.2019 has been mailed by the respondents and the petitioner has been called upon to submit his reply thereof. Since the petitioner was unable to send his written submission for the reason that Writ Petition No.35543 of 2019 has been pending, in my considered view, the written submission sent on 9.3.2020 should be considered. Accordingly, considering the fact that the representation dated 9.3.2020, though sent belatedly, during the pendency of the Writ Petition Nos.35543 of 2019 and 4116 of 2020, is still pending, the second respondent is hereby directed to consider the said representation within ten days time and pass appropriate orders, as per law. In view of the above, as the subsequent proceedings dated 17.3.2020 and 20.3.2020 have become unnecessary, there is no need to adjudicate upon the same. With this direction and observation, the writ petition is disposed of accordingly. Consequently, W.M.P.Nos.8908 & 8909 of 2020 are closed. No costs.

Speaking/Non speaking order

18.05.2020

Index : yes/no

ss

To

1. *The General Manager (NW1)*

and Appointing Authority

State Bank of India

Local Head Office

Circle Top House, 7th Floor

16, College Lane

Nungambakkam, Chennai 600 006

2. *The Deputy General Manager (B&O)*

Disciplinary Authority

State Bank of India-Administrative Office

'Chinnaiyan Towers', 120/2 & 120/3,

Cherry Road, Salem 636 007

3. *The Regional Manager (RBO-IV)*

State Bank of India

No.1-B, Old Bangalore Road

Gowri Shankar Hotel Complex

Hosur 635 109

4. *Assistant General Manager*

Enquiry LITO, (Vigilance Department)

State Bank of India

Chennai 600 001

5. *The Branch Manager*

State Bank of India

A Mullapuram Branch- 636 806

W.P.No. 7576 of 2020

T.RAJA, J.

SS



W.P.No.7576 of 2020

18.05.2020

WEB COPY