

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.14297 of 2020

and

W.M.P.No.17771 & 17772 of 2020

M.Umapathy

... Petitioner

Vs.

1.Indian Overseas Bank,
Rep by its Chief Executive Officer/MD (in charge),
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002.

2.The General Manager (HRMD-IR Section),
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai - 600 002.

3.The Chief Manager/Disciplinary Authority,
Regional Office, Indian Overseas Bank,
No.3, First Floor, 10th East Cross Road,
Gandhi Nagar, Vellore - 632 006.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to Transient Series File 7(F) Circular No.33/2019-20 dated 04.06.2019 issued by the 2nd respondent and the consequent charge sheet bearing RO/HRMD/16/2020-21 dated 21.09.2020 issued by the 3rd respondent and quash the same.

For Petitioner : Mr.K.M.Ramesh

ORDER

The petitioner is working as a Clerk in the respondent/Bank. He claims himself to be active in Trade Union Activities and stated to have held various posts in the All India Overseas Bank Employees' Union. According to him the Union is recognized by the respondent/Bank. For sometime, he was also elected as Assistant General Secretary of a region in the Union.

2.The petitioner claims to have also contested in the election for the post of President of Indian Overseas Bank

Employees' Union in 2020. He has also approached this Court in W.P.No.35349 of 2019 seeking direction to enquire into the complaint in regard to the irregularities in the amendment to the bylaws and other related activities of the Union. According to him the above writ petition was disposed of on 21.01.2020 and a Writ Appeal was filed in W.A.No.606 of 2020 and the Writ Appeal was allowed, in this background. According to him the General Secretary of the Union against whom the petitioner worked in the election, become inimical and developed ill-will towards him.

3.As far as the present writ petition is concerned, the petitioner has written a letter to the first respondent namely the Chief Executive Officer/Managing Director Incharge, seeking his intervention to stop the General Secretary of the Union from acting as Office Bearer of the Employees' Union. The letter was written by him on 01.04.2020 and the first respondent being the Head of the Institution was entrusted with the power of recognizing or de-recognizing the Union. According to the petitioner that letter was not sent by him projecting any personal grievances but it was only pertaining to the affairs of the Union activities and its leadership. According to him that the letter was communicated to the first respondent directly only with good faith and in upholding the larger interest of the employees of the Bank.

4.While so, that the letter was construed to be a misconduct and a show cause notice was issued by the second respondent on 09.04.2020, for which the petitioner replied on 30.04.2020. In the reply to the show cause notice, the petitioner has clarified that only with a view to maintain confidentiality, secrecy and seriousness of the issue highlighted by him, he represented to the highest Authority as a matter of due diligence and caution. However, not satisfied with the reply, the respondent/Bank has issued a charge sheet framing three Articles of charges, on 21.09.2020 which is the subject matter of challenge in the writ petition along with Circular issued by the Bank dated 04.06.2019 which prohibits representation by the staff directly to the top Management seeking their intervention and advising the staff that any representation should be routed through Department/Branch head.

5.Mr.K.M.Ramesh, learned counsel for the petitioner would submit that the Circular is a draconian measure issued by the Bank in order to curtail the freedom of communication by the employees for expressing their grievances directly to the top Management, particularly in matters of maintenance of confidentiality and secrecy of the contents of the representations. The Circular also would act as deterrent to the legitimate whistle-blower, who would be discouraged when matters of corruption to be brought to the knowledge of the top Management. Such prohibition as provided in the impugned Circular would affect transparency and accountability in the

Administration of the Management. In that view of the matter, the charge sheet issued by the Bank against petitioner for addressing a letter to the first respondent, particularly in good faith has to be discountenanced as being totally illegal and unsustainable affecting the constitutional right of the petitioner.

6.This Court has considered the above submissions of the learned counsel and also perused the impugned Circular and the charge sheet. When a Public Sector Bank takes a decision and issues Circular in the nature of what is impugned in the writ petition, the Bank takes into consideration so many factors in order to streamline the process of redressal of grievances of the employees. What is stated in the Circular, after all is that the staff are advised and directed to address their representation projecting their grievances to their immediate Superior and any communication addressed to the higher Authority, such communication to be sent through their Branch/Departmental Incharge.

7.This Court does not think that there is anything wrong in such stipulation in the impugned circular. On the other hand, this Court finds that such advice is necessary and imperative in order to discourage the staff of the Bank in projecting all and sundry issues, grievances directly to the top Management, which would not only be a burden on the top Management to take decisions on such communications but also it would amount to encourage the staff to by-pass the administrative hierarchy existing in the Management. If the staff are freely allowed to communicate with the top Management for all and sundry grievances particularly in today's context that would only result in indiscipline and also would lead to contumacious conduct on the part of the staff who would be emboldened to defy their immediate Superiors, Department Head etc. and start communicating with the top Management.

8.Therefore, it is always the prerogative of the Bank to prescribe a minimum standard of conduct for the staff in raising certain issues / grievances concerning their service condition etc. Such streamlining of the channel of communication can never ever be construed as affecting the so called Fundamental Right of the petitioner. May be the petitioner being an active Member of the Trade Union feels slighted by invocation of the Circular dated 04.06.2019 by the Management and ostensibly being an active Member of the Union, he was not expected to fall in line with the legitimate decisions taken by the Bank in issuing the impugned advisory for its staff.

9.The submission of the learned counsel for the petitioner that such restriction would affect transparency and accountability and also would discourage whistle-blowers from pointing out the irregularities indulged in by the Officials,

these submissions according to this Court, have absolutely no merits at all. Merely because the Bank has advised the staff not to address any communication directly to the top Management, it does not mean that the legitimate grievance of the staff would not be addressed at all.

10.As regards the accountability and transparency being affected by the introduction of the Circular dated 04.06.2019, the said argument is per se far fetched and without any substance as the Circular streamlining the procedure for communication by the staff vis-a-vis the top Management cannot be taken to mean that by operation of the subject circular, the Management would become less transparent or accountable in discharge of its affairs. These submissions made on behalf of the petitioner are not only frivolous and mischievous too. On the whole this Court finds that the entire writ petition is bereft of any legitimate cause of action and has to be rejected outright. If the charge sheet was to be quashed along with the circular on the basis of the averments contained in the writ petition and the contentions put-forth on behalf of the petitioner that would only encourage the staff to needlessly correspond with the top Management and seek its intervention in issues which could be sorted out at different levels of the management. In which event there will be no semblance of orderliness and discipline in their conduct vis-a-vis the top Management.

11.To sum up in the opinion of this Court, this litigation is frivolous and mischievous too for the reason the petitioner presumably felt indignant at the hands of the Management that his stature as active Union Leader being belittled and was being questioned and exposed, and has therefore filed this Writ Petition questioning not only the charge memorandum but also challenging the Circular dated 04.06.2019, itself. Hence, this Court finds that the writ petition lacks in bonafides and liable to be dismissed with cost. This writ petition is therefore dismissed with cost of Rs.10,000/- to be payable by the petitioner to the Hon'ble Chief Minister's Covid - 19 Relief Fund.

12.The cost is to be paid within a period of two weeks from the date of receipt of copy of this order and in case, the petitioner fails to pay the cost, the respondent/Bank is directed to recover the cost from the monthly salary payable to the petitioner and remit the amount to the Hon'ble Chief Minister's Covid - 19 Relief Fund. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

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mrm/pns

To

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No.3, First Floor, 10th East Cross Road,
Gandhi Nagar, Vellore - 632 006.

+1cc to Mr.K.M.Ramesh, Advocate SR.No.33272

W.P.No.14297 of 2020

SSD(CO)
GMY(18/11/2020)



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