

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.35867 of 2019

and

WMP.Nos.36839 of 2019 and 36778 of 2019

R.S.Mani

..Petitioner

.v.

- 1.Indian Overseas Bank,
Represented by its Managing Director,
Central Office,
762, Anna Salai,
Chennai 600 002.
- 2.Mr.B.A.R.Patro,
The General Manager/Disciplinary Authority,
Indian Overseas Bank,
Zonal Office, Cross cut Road,
Coimbatore 641 012.
- 3.M.Nagaraj,
Chief Manager/Inquiring Authority,
Indian Overseas Bank,
CDAC,
Central Office, Chennai 600 002.
- 4.K.Parthasarathy,
(General Manager, retired, IOB),
39, T.P.Koil Street,
Triplicane,
Chennai 600 005.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondents in ZO/DA.GM (BARP) ZO VIG 9665 1226 of 2019-20 and quash the findings of the 3rd respondent dated 09.12.2019 and consequently direct the respondents to conduct a fresh Inquiry into the charges leveled against me in MOAAC DO GM (KP) ZO/CO file 9665 2017-18 dated 02.02.2018.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.Gautam S.Raman

For R 1 : Mr.N.G.R.Prasad

O R D E R

This Writ Petition has been filed challenging the findings of the 3rd respondent, who is the Enquiry Officer who was appointed by the respondent Bank to conduct enquiry on the charges framed against the petitioner vide Charge Memo dated 02.02.2018 and for a consequential direction to the respondents to conduct a fresh enquiry.

2.The case of the petitioner is that he was working as a Chief Manager in the Industrial Relations Department. The Charge Memo was issued by proceedings dated 02.02.2018. The petitioner had given a detailed explanation for the said Charge Memo by his reply dated 19.03.2018. Thereafter, the 3rd respondent was appointed as the Enquiry Officer. The grievance of the petitioner is that the 3rd respondent has adopted a procedure which is totally opposed to the principals of natural justice since documents were marked even without examining witnesses and as a result of the same, the petitioner was not even able to cross examine the witnesses. The further grievance of the petitioner is that a one sided report was submitted by the 3rd respondent and therefore the entire enquiry report is vitiated. As a result of the same, even if further explanation is given by the petitioner, no useful purpose will be served in view of the findings of the 3rd respondent.

3.When the matter came up for admission, this Court informed the learned counsel appearing on behalf of the respondent Bank that prima facie the procedure that was adopted by the Enquiry Officer, who is the 3rd respondent, goes against the basic principles of administrative law. This Court also directed the learned counsel to take instructions from the respondent Bank as to whether the enquiry can be revived by properly examining the witnesses and giving the petitioner an opportunity to cross examine them.

4.When the matter was posted for hearing today, a memo has been filed by the respondents and the same is extracted hereunder:

"The Petitioner has filed the above Writ Petition challenging the Enquiry findings dt.2.2.2018.

The Respondent Bank while denying the averments/allegations made by the petitioner in the writ petition, considering the suggestion made by this Hon'ble Court, agreed to delete the enquiry proceedings that took place from

17.08.2019 and all subsequent proceedings from the record and conduct the Departmental enquiry on the charge sheet dt.2.2.2018 from the stage of examining Management witnesses without treating this as a precedent.

In the light of the above, this Hon'ble Court may pass appropriate orders in the above writ petition".

5.Heard Mr.V.Prakash, learned Senior Counsel appearing on behalf of the petitioner and Mr.N.G.R.Prasad, learned counsel appearing on behalf of the respondent Bank.

6.In view of the specific stand that has been taken by the Bank in the memo filed before this Court, this Court is of the considered view that the entire findings of the Enquiry Officer dated 09.12.2019, can be set aside. If the respondent Bank wants to proceed further with the enquiry, the respondent Bank shall appoint a new Enquiry Officer and direct him to conduct a de novo enquiry by affording the petitioner with sufficient opportunity by allowing him to cross examine the witnesses examined by the management. Whatever materials are relied upon by the management shall also be given to the petitioner to effectively defend himself in the proceedings.

This Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

KP

To

The Managing Director,
Indian Overseas Bank,
Central Office,
762, Anna Salai,
Chennai 600 002.

+1cc to Mr.N.G.R.Prasad, Advocate SR.No.15995

W.P.No.35867 of 2019

SVI (CO)

<https://hcservices.courts.gov.in/hcservices/>

GMI (20/03/2020)