



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.1609 of 2011

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B.Sukumar

... Petitioner

-Vs-

- 1.The General Manager,
Personnel Administration Department,
Indian Overseas Bank,
Central Office P.B.No.3765
No.763, Anna Salai,
Chennai 600 002.
- 2.The Senior Manager,
Disciplinary Authority / Enquiry Officer,
Indian Overseas Bank,
Central Office, P.B.No.3765
No.763, Anna Salai,
Chennai 600 002.
- 3.Thiru.K.S.Ganapathy Subramanian
Disciplinary Authority / Enquiry Officer,
Indian Overseas Bank
Central Office, P.B.No.3765,
No.736, Anna Salai,
Chennai 600 002.
- 4.The Senior Manager,
Indian Overseas Bank,
Nachalur Branch,
Kulithalai, Karur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in ref.C/CDAC/DA/5062/2010, dated 16.12.2010, quash the same and consequently direct the second respondent herein to conduct a fair and proper enquiry afresh with reasonable opportunity to the petitioner in accordance with law within a reasonable time.



For Petitioner : Mr.B.Jameel Arasu

For R1, R2 and R4 : Mr.P.Senthil

For R3 : No Appearance

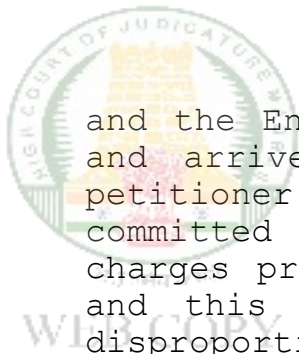
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ORDER

The order of termination issued by the second respondent in proceedings, dated 16.12.2010, is under challenge in the present writ petition. Further direction is sought for to conduct a fresh enquiry regarding the charges. The writ petitioner was employed as Special Assistant Clerk in the respondent bank. He was working at Nachalur Branch of the respondent bank. He was due to retire from service on 31.12.2010. During the verge of retirement, the writ petitioner was dismissed from service.

2.On account of initiation of disciplinary proceedings, a charge memo was framed against the writ petitioner on 08.11.2010. The charge against the writ petitioner are that the petitioner had caused damage to the property of the bank and its workman and he committed an act prejudicial to the interest of the bank involving serious loss. Thus, he committed gross misconduct coming within the clause 5(d) and 5(j) of Memorandum of Settlement, dated 10.04.2002 between the bank and its workman. The writ petitioner participated in the process of enquiry and the Enquiry Officer conducted a detailed enquiry by considering the document and evaluating the evidences placed by the respective parties. The findings of the Enquiry Officer is elaborate and he arrived at a conclusion that all the charges against the writ petitioner are held proved. The writ petitioner attended the enquiry, defended his case and accordingly, the enquiry was conducted by providing opportunity to the writ petitioner. Based on the findings of the Enquiry Officer, the disciplinary authority passed the final orders on 16.12.2010 imposing the penalty of dismissal from service.

3.The power of the High Court under Article 226 of the Constitution of India to interfere with the disciplinary proceedings are to be exercised in exceptional cases. A decision can be interfered with only on certain exceptional circumstances. However, the process through which the decision is taken by the competent authority is to be scrutinised by the High Court under Article 226 of the Constitution of India. At the outset, it is not a decision and the processes followed for arriving such a decision must be considered. In the present case, a charge memo was issued. The charges are undoubtedly serious in nature. There are many financial irregularities which all are narrated in the charge memo



and the Enquiry Officer had also elaborately conducted the enquiry and arrived at the findings that the charges against the writ petitioner are proved. Unauthorised and fraudulent acts have been committed and a perusal of the enquiry report reveals that all the charges proved are very serious in nature warranting major penalty and this Court is of the considered opinion that there is no disproportionality in the matter of imposing punishment by the disciplinary authority.

4.The learned counsel appearing on behalf of the writ petitioner reiterated that no reasonable opportunity was given to the writ petitioner to defend his case. In this regard, the findings of the Enquiry Officer is unambiguous that the charged officer attended the enquiry and had self defended his case as such, in his letter, dated 25.11.2010. During the course of enquiry, the CSE accepted all the charges framed against him vide charge sheet, dated 08.11.2010 voluntarily, unconditionally and is fully aware of the consequences of such voluntary and unconditional acceptance of guilt. The findings further reveals that as the CSE accepted the guilt voluntarily and unconditionally, Presenting Officer and CSE requested for waiver of submission of PO brief and CSE brief and the submission of the same were waived. In spite of the acceptance of the charges, the Enquiry Officer has conducted an enquiry and evaluated the evidences independently. When the delinquent officer himself has pleaded guilty and even before the Enquiry Officer, he has stated that he is admitting the charges unconditionally, there is no reason to interfere with the order of penalty imposed by the disciplinary authority. The findings of the enquiry is clear that the delinquent officer voluntarily, unconditionally and is fully aware of the consequences of such voluntary and unconditional acceptance of guilt. This being the findings, this Court is of the considered opinion that no further consideration with reference to the grounds raised in the writ petition are required. Though the writ petitioner was a workman and would have approached the Labour Court, he has filed this writ petition in the year 2011 and the writ petition is pending for the past more than 9 years. Thus, this Court is inclined to consider the merits and pass orders as the writ petitioner once again to go to some other forum which would take a long time.

5.The learned counsel appearing on behalf of the respondents 1, 2 and 4 made a submission that the allegation imposed on the writ petitioner are very serious and he pleaded guilty before the Enquiry Officer in clear terms. The Enquiry Officer has also recorded the statement of the writ petitioner and therefore, there is no reason to entertain the writ petition. It is further brought to the notice of this Court that the writ petitioner preferred an appeal to the appellate authority under the service regulations and the said appeal was also rejected by the appellate authority. This being the factum established, this Court is of the considered opinion that the writ petitioner has not established any acceptable legal grounds for



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the purpose of interfering with the quantum of punishment. Thus, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

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/ /2020

Sub Assistant Registrar(CS)

Sji

+1 CC to M/s.N.G.R. PRASAD, Advocate (SR-19557[F] dated 09/10/2020)

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