



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.27227 of 2019

and

W.M.P. (MD)Nos.23517 and 23520 of 2019

G.Kumaresan (Staff No.59937)

... Petitioner

Vs.

1.The General Manager,
Canar Bank,
Circle Office,
East Veli Street, Madurai.

2.The Deputy General Manager,
Canara Bank,
Human Resources Management Section,
Circle Office,
East Veli Street,
Madurai - 625 001.

3.The Assistant General Manager/
Disciplinary Authority,
Canara Bank,
Human Resources Section,
Circle Office, Madurai.

4.The Branch Manager,
Canara Bank,
Vikkiramangalam Branch,
Usilampatti Taluk,
Madurai District.

5. Kaliraj,
Enquiry Officer,
Canara Bank,
Premises and Estate Section,
Circle Office,
East Veli Street,
Madurai - 625 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders passed by the 2nd respondent in Ref.No.:MDUC:HRM:2422:2019, dated 26.09.2019 and Ref.No.:MDU:HRM:2496:2019, dated 09.10.2019 and quash the same and direct the respondents 1 to 3 and 5 to permit the petitioner to



engage a lawyer to conduct the disciplinary proceedings initiated by the 3rd respondent in Ref.No.: MDU HRM CS (W) 03/2019, dated 17.05.2019.

For Petitioner : Mr.R.Subramanian
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

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ORDER

The petitioner herein was subjected to disciplinary action based on certain charges levelled against him through a charge memo, dated 17.05.2019. When the petitioner has sought for permission to engage a lawyer to assist him during the course of the disciplinary proceedings, the same came to be rejected through the impugned order, dated 26.09.2019.

2. The learned counsel for the petitioner would submit that in view of the circular No.333/2007, dated 06.12.2007, he would be entitled to be represented by a lawyer during the course of disciplinary action.

3.The circular, dated 06.12.2007, does not mandate the respondents to grant permission for any request for an assistance of a lawyer during the course of disciplinary action. On the other hand, the circular categorically prohibits such a representation through a lawyer, unless and until the permission of the concerned Deputy General Manager is obtained. In the instant case, when the petitioner has sought for such permission, the Deputy General Manager has rejected the same through the impugned order and therefore, the petitioner would not be entitled as a matter of right to be represented by a lawyer during the course of the disciplinary proceedings. Hence, I do not find any merits in the present writ petition.

4. At this juncture, the learned counsel for the petitioner would submit that the petitioner is willing to co-operate in the disciplinary action and that the petitioner could be given an opportunity to cross-examine two witnesses produced by the management during the course of disciplinary proceedings.

5. On the other hand, the learned Standing Counsel for the respondents would submit that the petitioner has been indulging in protracting the proceedings and has sought for adjournments for more than 20 occasions. Since the disciplinary proceedings is at the verge of conclusion, such an opportunity should not be extended to the petitioner.

6. It is needless to point out that in disciplinary proceedings, the principles of natural justice as well as a due



opportunity to the delinquent officers to defend his case should be extended, in order to have a fair and proper enquiry. However, such opportunities could not be taken advantage by the delinquent officers for unnecessarily delaying the proceedings. In the instant case, the petitioner seeks to take a stand that in view of the pendency of the present writ petition, he had not cross-examined the witnesses produced by the management. Though the pendency of the writ petition may not forbear the petitioner for cross-examining the witnesses, this Court, is of the view that a sympathetic approach could be extended and the petitioner could be given an opportunity to defend himself by cross-examining the witnesses produced by the management, as well as permit him to produce his own witnesses. In order to avoid unnecessary delay that may be caused to the disciplinary proceedings, time limit could be stipulated for conclusion of the entire proceedings.

7. In the light of the above submissions, the respondents herein are directed to permit the petitioner to cross-examine the witnesses produced by them during the course of the departmental action. Likewise, the petitioner is also at liberty to produce his own witnesses. It is made clear that in view of the submissions of the management that the proceedings are being delayed at the instance of the petitioner, the enquiry officer shall endeavour to complete the enquiry as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order. It is made clear that the petitioner herein shall co-operate during the course of enquiry.

8. With the above directions, the writ petition stands closed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

+1 CC to Mr.R.SUBRAMANIAN, Advocate (SR-6090[F] dated 13/02/2020)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-6161[F] dated 13/02/2020)

**Order made in
W.P. (MD)No.27227 of 2019
12.02.2020**

MK (28.02.2020) 3P 3C

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