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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2021

Coram:

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.27024 of 2021

&

W.M.P.No.28618 of 2021

M.Umapathi

(Charge Sheeted employee under suspension)

Roll No.36595,

Clerk/Shroff/Typist,

IOB, VEDIYANGADU BRANCH,

Vellore Region

...Petitioner

Vs.

1. The General Manager (Human Resources Management),
Indian Overseas Bank, Central Office,
No.762, Anna Salai,
Chennai - 600 002.

2. Disciplinary Authority,
Indian Overseas Bank, Central Office,
No.762, Anna Salai,
Chennai - 600 002.

3. Enquiry Officer,
Indian Overseas Bank, Central Office,
No.762, Anna Salai,
Chennai - 600 002.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondent from any manner in proceeding with or conducting the departmental proceeding pursuant to the charge sheet in DO:CDAC:SM (TSN):DA:VIG:8508:6167:2013 dated 12.03.2014 without providing opportunity to the petitioner to adduce evidence and consequently directing the respondents to provide the documents sought by the petitioner in the enquiry dated 01.09.2021.

For Petitioner ..

Mr.K.M.Vijayan
for M/s.Vijayan Associates



ORDER

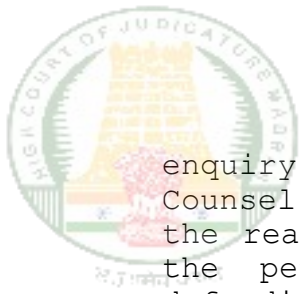
The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus forbearing the respondent from any manner in proceeding with or conducting the departmental proceeding pursuant to the charge sheet in DO:CDAC:SM(TSN):DA:VIG:8508:6167:2013 dated 12.03.2014 without providing opportunity to the petitioner to adduce evidence and consequently directing the respondents to provide the documents sought by the petitioner in the enquiry dated 01.09.2021.

2. The petitioner is working as a Clerk in the respondent Bank at Sathuvachari Branch, Vellore. He was issued with a charge memorandum dated 12.03.2014 by the 2nd respondent herein. The petitioner earlier filed W.P.No.15056 of 2014 challenging the disciplinary proceedings initiated against him on the ground that simultaneous proceedings was not permissible due to the pendency of the criminal case pending against him for the same set of allegation. However, the said writ petition was dismissed on 05.11.2014. Against which, Writ Appeal was filed and the same was also dismissed and confirmed by the Hon'ble Supreme Court of India on 10.05.2016.

3. Thereafter, the petitioner once again, approached this Court in W.P.No.43749/2016 seeking Advocate's assistance for defending himself in the enquiry proceedings. This Court has allowed the writ petition and permitted him to engage the service of a lawyer to defend him against the charge memorandum. However, the Management appealed against the order of the learned single Judge in W.A.No.428 and 1415 of 2019 and thereafter, the appeal was disposed of on the basis of the understanding that the petitioner would be permitted to engage the service of a lawyer. According to the affidavit, thereafter, the department proceedings had commenced and was proceeding with the examination of witnesses.

4. The present writ petition has been filed challenging the original Charge memorandum dated 12.03.2014 finding fault with the manner in which the proceedings have been conducted by the respondent Bank. Number of factual instances have been quoted in the affidavit in regard to the marking of documents, objections by the Enquiry Officer and the presenting officer. In effect, the affidavit contains all the factual details in regard to the day-to-day conduct of the enquiry proceedings against him. Being aggrieved by the day-to-day record of events in the course of the disciplinary proceedings, the petitioner is now before this Court challenging the charge memorandum itself.

5. The learned Senior Counsel Mr.K.M.Vijayan, appearing for the petitioner would submit that the petitioner has not been given proper and due hearing and there has been systematic denial of fair procedure while conducting the



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enquiry proceedings against him. In fact, the learned Senior Counsel has attempted to draw the attention of this Court into the realm of factual appreciation of various instances of how the petitioner has been denied proper opportunity while defending himself during the conduct of enquiry proceedings in course of examining of witnesses and marking of documents.

6. This Court is unable to appreciate the arguments advanced by the learned Senior Counsel for the simple reason that in the guise of finding fault with certain procedure adopted by the Enquiry Officer, Presenting Officer and the disciplinary authority, the petitioner has now approached this Court by challenging the very charge memorandum itself. As could be seen in the above factual narrative, the petitioner has approached this Court earlier by filing two writ petitions. The first writ petition in W.P.No.15056 of 2014, wherein the petitioner had challenged the disciplinary proceedings, was dismissed and the same was confirmed upto the Hon'ble Supreme Court. Thereafter, one more writ petition in W.P.No.43749 of 2016 was filed seeking the assistance of a lawyer and that prayer was granted to him. Therefore, the fact of the matter is that the petitioner had earlier attempted and failed to impress upon this Court successfully as to the challenge to the disciplinary proceedings. Having failed in the earlier attempt, the petitioner is back to the Court once again with the same cause of action attempting to give a different colouration to his challenge in the Writ Petition. In the said circumstances, the Writ Petition is to be rejected as downright abuse of process of the Court.

7. Be that as it may, challenging the charge memorandum once again is not only hit by the principles of res-judicata, but factually, the petitioner has come up with an imagined and exaggerated grievance as if he has been denied proper opportunity to defend himself in the enquiry. Even assuming there were certain discrepancies in the perception of the petitioner, it is always open to the petitioner to take advantage of any lacunae in the conduct of the proceedings at a later point of time. However, at the same time, the petitioner cannot be allowed to knock at the doors by invoking extraordinary jurisdiction of this Court at every stage of the enquiry with trumped up grievances. From the conduct of the petitioner, it could be reasonably deduced that the petitioner's repeated attempts to approach this Court, is motivated and intended to drag the enquiry proceedings and thereby gaining advantage for serving his own ends.

8. This is the third writ petition filed by the petitioner as per the declaration in the affidavit in regard to the same disciplinary action and therefore, this Court is of the clear view that the present writ petition is gross abuse of process of Court. The facts stated in the affidavit which impelled the petitioner to come to the Court once again, cannot be the basis for challenging the charge memorandum. On



the whole, this Court is of the view that the writ petition is thoroughly misconceived and also it is filed with an oblique motive and intended to achieve a collateral purpose and hence, liable to be rejected.

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9. For the above reasons, the Writ petition is dismissed both on merits as well as not maintainable at this stage. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vsi/tri

W.P.No.27024 of 2021

&

W.M.P.No.28618 of 2021

SMI (CO)

PR (25/01/2022)