



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8081 of 2021

W.M.P. (MD)Nos.6173 & 6174 of 2021

WEB COPY

S.Mayilerinathan

... Petitioner

vs.

1.The Regional Manager,
RBO - II,
State Bank of India,
No.2, Dr.Ambedkar Road,
Administrative Office,
Madurai - 2.

2.The Enquiry Officer and
Chief Manager (LPC-RBO-II)
State Bank of India,
No.2, Dr.Ambedkar Road,
Administrative Office,
Madurai - 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling the records relating the closure of the enquiry proceedings by the 2nd respondent dated 09.04.2021 made in CHE/OAD/DIS.CON.394 and quash the same and consequently permit the petitioner to re-examine the witnesses.

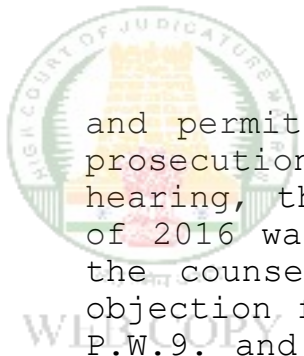
For Petitioner : Mr.R.Murali

For Respondents : Mr.M.Ponniah

ORDER

This Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, calling for the records relating the closure of the enquiry proceedings by the 2nd respondent dated 09.04.2021, made in CHE/OAD/DIS.CON.394 and quash the same and consequently permit the petitioner to re-examine the witnesses.

2. According to the petitioner, he is working as Senior Head Messenger in State Bank of India and a charge memo dated 21.03.2014, was issued to him. A domestic enquiry was ordered as against him and concluded. The petitioner participated in the enquiry. Being not satisfied with the findings of the Enquiry Officer, the petitioner filed a Writ Petition in W.P.(MD)No.8004 of 2016, to change the Enquiry Officer. He also filed another Writ Petition in W.P.(MD)No.7424 of 2016 to quash the proceedings of the second respondent therein in DIS/CON/491, dated 12.04.2016 and 13.04.2016



and permit the petitioner to enquire DGM as witnesses and recall prosecution witnesses. When the Writ Petitions were taken up for hearing, the Enquiry Officer retired and therefore, W.P.(MD)No.8004 of 2016 was dismissed as infructuous. In W.P.(MD)No.7424 of 2016, the counsel for the respondent bank submitted that they have no objection for recalling the witnesses viz., P.W.1, P.W.5, P.W.8 and P.W.9. and prayed to fix the date for conclusion of enquiry. This Court considering the case of the petitioner and the submission of the learned counsel appearing for the respondent bank, directed the second respondent to produce the witnesses viz., P.Ws.1, 5, 8 and 9, within a period of two weeks from the date of receipt of a copy of that order, before the Enquiry Officer and on the same day, the petitioner was directed to cross examine the above said four witnesses.

3. As per the order of this Court, the Enquiry Officer fixed the date of enquiry as 26.03.2021. The petitioner sought 20 days time for engaging defence representative. The Enquiry Officer granted time till 09.04.2021. On 09.04.2021, all the four witnesses were present. The defence representative sought all the copies of earlier proceedings of enquiry, evidence recorded and recorded video and also made a request to furnish the documents, if he requires in future. The Presenting Officer submitted that all the documents now sought for were already furnished to the petitioner and the defence representative ought to have received the same from the petitioner. The petitioner ought to have taken back the documents from the earlier defence representative. All the four witnesses are Senior Officers, working in different places and P.W.8 is coming from other State.

4. From the order of this Court dated 16.02.2021, it is seen that this Court directed the second respondent to produce all the four witnesses within two weeks and directed the petitioner to cross examine all the four witnesses on the same day. This Court also directed the Enquiry Officer to fix a date and conclude the enquiry within three months thereafter. When this Court has given a specific direction to produce all the four witnesses within two weeks and directed the petitioner to cross examine all the witnesses on the same day, the petitioner ought to have made arrangement to cross examine the witnesses on the same day itself.

5. Considering the entire materials and the submission made now by the learned counsel for the petitioner, this Court on 20.04.2021 directed the counsel for the respondents to get instructions with regard to production of witnesses in a particular date. The learned counsel appearing for the respondents, on instructions, submitted that P.W.8 is coming from Kerala and he infected with COVID-19. P.Ws.1 and 5 also have to come from Chennai and P.W.9 is in Madurai. The second respondent is willing to produce P.Ws.1, 5 and 9 on 28.04.2021 at 10.00 a.m., at the Administrative Office, Madurai,



where the enquiry is scheduled to be conducted.

6. The learned counsel for the petitioner submitted that the petitioner will not press for production of P.W.8 on 28.04.2021 and on subsequent dates and the petitioner will be satisfied, if he is permitted to cross examine P.Ws.1, 5 and 9.

7. Recording the above said submissions, this Court directs the first respondent to produce P.Ws.1, 5 and 9 before the Enquiry Officer on 28.04.2021 and the petitioner is directed to cross examine the above said three witnesses on the same day itself. If there is any failure on the part of the petitioner to cross examine the witnesses produced on that day, it is open to the second respondent to close the recording of evidence and proceed further with enquiry proceedings as per law. It is made clear that the petitioner is not entitled to make any claim for production of P.W.8 and also for cross-examination in future.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



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+1 CC to M/s.M.PONNIAH, Advocate (SR-17072[F] dated 22/04/2021)

+1 CC to M/s.M.SURESH KUMAR, Advocate (SR-17006[F] dated 22/04/2021)

W.P (MD) No.8081 of 2021

and

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NA (CO)

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