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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.7175 OF 2021

AND

WMP NO.7687, 7688 OF 2021

N.Gnanasubramanian

... Petitioner

Vs.

1. The Indian Overseas Bank,
Represented by its Managing Director and
Chief Executive Officer, Central Office,
763, Anna Salai, Chennai 600 002.
2. Chief Manager/Disciplinary Authority,
Central Office, 763, Anna Salai,
Chennai 600 002.
3. Chief Manager/Enquiry Officer,
Indian Overseas Bank, Mogappair East Branch,
Plot C-6, Block-10, Pari Salai,
Mogappair East, Chennai 600037.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, Calling for the records relating to the impugned notice titled as " Notice regarding Personal hearing in respect of Charge Sheet dated 31.05.2018 issued to you" bearing No.DA/CM(N) 213/2020-21 dated 09.03.2021 issued by the second respondent and to quash the same and consequently direct the third respondent Enquiry Officer to reopen the enquiry for marking and appreciation of 19 documents in accordance with service law.

For Petitioner	: Mr. K.M.Ramesh for M/s V.Subramani
For Respondents	: Mr.K.Srinivasamurthy



ORDER

This Writ petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to transfer the petitioner to the Government Medical College Hospital, Madurai District, by considering his representation dated 16.05.2022.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The petitioner is working as a Clerk in the respondent Bank. While he was working in Theni-Allinagaram Branch, Dindigul, he was suspended from service on 14.07.2015 and thereafter, the suspension order was revoked vide order dated 07.01.2017. Subsequently, while the petitioner was working at Cumbum Branch, an FIR was registered against him by CBI, alleging that he had obtained illegal gratification from one Thiruvankadakannan for his absorption as Sweeper in the respondent bank and charge sheet was issued. Thereafter, enquiry was conducted, wherein, the Bank management marked 24 documents and examined 15 witnesses and the petitioner marked 3 documents and examined 3 witnesses and enquiry proceedings was concluded. After receiving report of the enquiry officer, the disciplinary authorities directed the petitioner to submit his reply on the enquiry report. In the report, the petitioner found that 19 documents were marked in the enquiry proceedings behind the petitioner and no opportunity was given to him either to go through the documents or to verify the veracity of those documents. Therefore, the petitioner sent letters seeking to extend the time to give reply and also to give copies of those documents. But the second respondent issued the impugned notice. Hence the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the above said 19 documents were marked after concluding the enquiry proceedings, without affording any opportunity to the petitioner and hence, the same is unsustainable and therefore, the petitioner is entitled for re-opening the enquiry proceedings. He further submitted that without adopting any legal proceedings, the enquiry was concluded and report was submitted before the disciplinary authorities and based on the enquiry report, the disciplinary authorities are intending to pass final orders imposing punishment dismissal from service. Therefore, the impugned notice is liable to be quashed and the third respondent may be directed to re-open the enquiry for marking and appreciation of those documents in accordance with law.

5. At this juncture, it is relevant to rely upon the



statements made in the counter affidavit, wherein, at paragraph No.6, stated as follows:

" I submit that the petitioner has filed the above writ petition to quash the notice regarding personal hearing dated 09.03.2021 issued by the second respondent in respect of charge sheet dated 31.05.2018 and to consequently direct the third respondent, enquiry officer to reopen the enquiry for marking and appreciation of 19 documents in accordance with the service law. His contention is that the Presenting Officer has introduced 19 documents behind his back after the enquiry was concluded and the enquiry officer has relied upon the same in his enquiry findings without affording due opportunity and despite his efforts he could not get the copies of those documents and therefore, the action of the respondents amounts to bias, vindictive etc. and therefore, the enquiry should be re-opened and he should be afforded opportunity to make his submissions on the 19 documents. I submit the petitioner lacks bonafides. In the personal hearing notice dated 09.03.2021 itself, the Disciplinary Authority categorically stated that no evidentiary value will be given to the said 19 documents which the petitioner objecting too. Therefore, there is no necessity for the petitioner to file the above writ petition, which he has done only to prevent conclusion of the disciplinary proceedings. Therefore, this writ petition is liable to be dismissed for this reason itself.

6. The learned Counsel appearing for the respondents submitted that, pursuant to the orders passed by this court dated 19.03.2021, the petitioner had appeared before the disciplinary authority for personal hearing on 25.05.2021 and the disciplinary authority had recorded the petitioner's submissions, including the objection to the 19 documents relied on by the Presenting Officer. He further submitted that the disciplinary authority has concluded the proceedings and kept the final orders in the sealed cover. He has also given assurance before this Court that, as per the statement made in the counter affidavit, the disciplinary authorities would not take into account the evidentiary value of the above said 19 documents while passing the final orders.

7. The above statement made by the learned counsel for the respondent is recorded.

8. In view of the above said submissions, this court is of



the view that, reopening of the enquiry proceedings for marking and appreciation of 19 documents, will not arise. Further, it is for the respondents to pass final orders, by opening the sealed cover containing the final order and to publish the same.

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9. With the above observations, this writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Managing Director and Chief Executive Officer,
Indian Overseas Bank,
Central Office,
763, Anna Salai, Chennai 600 002.
2. The Chief Manager/Disciplinary Authority,
Central Office, 763, Anna Salai,
Chennai 600 002.
3. The Chief Manager/Enquiry Officer,
Indian Overseas Bank, Mogappair East Branch,
Plot C-6, Block-10, Pari Salai,
Mogappair East, Chennai 600037.

+1cc to Mr.N.G.R.Prasad, Advocate, S.R.No.37259
+1cc to M/s V.Subramani, Advocate, S.R.No.37053

W.P.No.7175 of 2021

SJ(CO)
PM/05/07/2022