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W.P. No.34689 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2023**

CORAM:

THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P. No.34689 of 2012
and M.P.No.2 of 2012

B.Ananda Murugan

.. Petitioner

vs.

The Disciplinary Authority,
Lakshmi Vilas Bank,
HRD Department, Administrative Office,
Karur – 639 006

.. Respondent

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 respondent herein in LVB/102-09.03/CGS(O)2/2012-12 dated 11.12.2012 issued based on the departmental action initiated in LVB/102-09.03/CGS(W)2/36/2012-13 dated 28.04.2012 and quash the same and consequently direct the respondent herein to defer the departmental action till disposal of the criminal proceedings in C.C.No.278/2011 pending on the file of the Judicial Magistrate No.1, Tiruppur.

For Petitioner : Mr.C.Prabakaran
for Mr.D.Balachandran

For Respondent : Mr.S.Haroon
for M/s.T.S.Gopalan & Co.



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ORDER

The writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the respondent herein in LVB/102-09.03/CGS(O)2/2012-12 dated 11.12.2012 issued based on the departmental action initiated in LVB/102-09.03/CGS(W)2/36/2012-13 dated 28.04.2012 and quash the same and consequently direct the respondent herein to defer the departmental action till disposal of the criminal proceedings in C.C.No.278/2011 pending on the file of the Judicial Magistrate No.1, Tiruppur.

2. Heard the learned counsel for the petitioner.

3. Learned counsel for the respondent submitted that the present writ petition has been filed by the person who has been working as a Peon in Tiruppur Branch of the respondent bank.

4. After going through the prayer in the writ petition, I find that the writ petitioner is challenging the disciplinary enquiry and also seeks for a direction to the respondent bank, not to proceed with the disciplinary enquiry till the disposal of the criminal case.



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5. In view of the primary objection raised by the learned counsel for the respondent as to the maintainability of the writ petition under Article 226 of the Constitution of India as against the private bank, I find that there can be no quarrel since the private bank does not fall under Article 12 of the Constitution of India, to be a 'State' and the writ petition has to be dismissed.

6. However, on the factual position, I find that the enquiry officer has submitted the report on 30.11.2012 and 2nd show cause notice was issued as to the proposed punishment on 11.12.2012 and the same was received on 20.12.2012 and the petitioner has filed the present writ petition on 16.12.2012 and it appears that this Court has passed an interim order on 21.12.2012 and the same was served upon the respondent on 07.01.2013.

7. In the meanwhile on 24.12.2012, itself the respondent bank has passed an order of termination from the service. As against the order of termination, the petitioner has a remedy either to approach the labour Court or the Industrial Tribunal.



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8. Therefore, in view of the subsequent development and also taking note of the fact that without having knowledge of the pendency of the case and the interim order, as the 1st respondent has passed the order of dismissal, the validity of the said order on the factual ground has to be tested before the appropriate statutory forum. Hence, the petitioner is at liberty to avail the statutory remedy, if he be so advised. The period of pendency of the writ petition can be considered by the Court if any condonation petition is filed by him and it is for the Court to decide.

9. Thus, taking note of the fact that the respondent Bank is a private bank and consequently, does not fall in Article 12 of Constitution, a State, the writ petition is not maintainable as against the respondent Bank and therefore, the writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No.
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RMT.TEEKAA RAMAN, J.

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