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W.P.(MD)NO.11817 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11817 of 2023 AND
W.M.P.(MD)Nos.10212, 10213 & 10215 of 2023

P.M.Jegadeesan

... Petitioner

Vs.

1. Tamil Nadu Grama Bank,
Rep. by its Chairman,
No.6, Yercard Main Road,
Hasthampatti, Salem – 636 007.

2. The Human Resource Manager /
Disciplinary Authority,
Tamil Nadu Grama Bank,
No.6, Yercard Main Road,
Hasthampatti,
Salem – 636 007.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his impugned order dated 27.03.2023 and quash the same as devoid of merits and consequently direct the respondents to close the disciplinary proceedings in Charge Memo No.TNGB/VIG/CS/10/2020-2021 dated 22.07.2020 against the petitioner within a time stipulated by this Court.



For Petitioner : Mr.Ananth C.Rajesh

For Respondents : Mr.N.Dilipkumar

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondent bank.

2. The petitioner is holding the rank of Office Assistant in the respondent bank. While working in Ottapidaram as well as Sayalkudi branch, he is alleged to have committed misappropriation. Charge memo was issued. The petitioner offered his explanation. It was not found to be acceptable. The enquiry officer was appointed. The petitioner wanted change of enquiry officer. This request was denied by the disciplinary authority. Challenging the said decision, the present writ petition came to be filed.



3. As rightly pointed out by the learned Standing counsel appearing for the bank, the second part of the prayer for closing the disciplinary proceedings cannot be accepted by this Court. What is challenged in the writ petition is only the rejection order passed by the disciplinary authority on 27.03.2023 for change of enquiry officer. The charge memo has not been put to challenge. Therefore, the second part of the prayer in the writ petition is clearly misconceived.

4. The petitioner's counsel points out that when the affidavits in respect of the petitioner were received by the enquiry officer through post, instead of dealing with the same as per law, the enquiry officer chose to address the deponents of the affidavits threatening them that the stand taken by them in the enquiry runs contrary to the records and that they would would face legal action.

5. This approach of the enquiry officer surprises me. An enquiry officer discharges quasi judicial function. Her job is only to render finding if the charges framed by the disciplinary authority have been established during the enquiry. She is literally functioning as a Judge. She is a fact finder. She is not supposed to take sides. We are not



following the inquisitorial system adopted in the continental countries. In

this case, the enquiry officer descended into the arena.

6. The issue is whether the petitioner is innocent or not. Instead of acting as a fact finder, the enquiry officer has acted as a presenting officer. The enquiry conducted by the enquiry officer has become vitiated. Since the principles of natural justice have not been followed in this case, the impugned rejection order is set aside. The second respondent is directed to appoint any other enquiry officer with a specific mandate to conduct a fair enquiry. I make it clear that the enquiry proceedings adopted so far will hold good and they will not be eschewed. The new enquiry officer will proceed from the stage where it is entrusted to him. The learned Standing counsel claims that while the delinquent's superior officers have already been dealt with, the petitioner has managed to prolong the enquiry for almost three years.

7. The learned counsel appearing for the petitioner denies the said contention. But the fact remains that for more than three years, the matter is pending. The petitioner is directed to extend his cooperation. If the petitioner fails to appear on any hearing date, he can



even be set ex-parte. The enquiry will be concluded within a period of twelve weeks from the date of receipt of a copy of this order. The enquiry report shall also be submitted before the disciplinary authority. The disciplinary authority is directed to take further action as per law. This writ petition stands partly allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

21.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Chairman,
Tamil Nadu Grama Bank,
No.6, Yercard Main Road,
Hasthampatti, Salem – 636 007.
2. The Human Resource Manager /
Disciplinary Authority,
Tamil Nadu Grama Bank,
No.6, Yercard Main Road,
Hasthampatti,
Salem – 636 007.



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G.R.SWAMINATHAN,J.

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