IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.12.2023

PRONOUNCED ON : 11.06.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.36435 of 2015
and
W.M.P.No.1 of 2015

A.Balakrishnan ...Petitioner

Vs.

1. The Appellate Authority,
President and Chief Operating Officer,
The Karur Vysya Bank Ltd.,
Central Office, karur - 639 002.

2. The General Manager,
The Disciplinary Authority,
Human Resources Department,
The Karur Vysya Bank Ltd.,
Central Office, karur - 639 002.

3. Appellate Authority under T.N.Shops
& Establishments Act
The Deputy Commissioner of Labour, Salem
Room Nos.414,415, 4th floor,
District Collector's Office,
Salem - 636 001. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records of the third respondent relating to his order dated 26.06.2015 in I.A.No.2015 in T.N.S.E.No.3 of 2014, quash the same and to direct the respondents one and two to produce all the documents described as S.No.1 to 10 in the petition in I.A.No.04 of 2015.

For petitioner	:	P.Jagadeesan
For R1 and R2	:	Mr.R.Raghunathan for T.S.Gopalan & Co
For R2	:	No appearance

ORDER

This writ petition is filed to quash the order dated 26.06.2015 in I.A.No.2015 in T.N.S.E.No.3 of 2014, and to direct the respondents one and two to produce all the documents described as S.No.1 to 10 in the petition in I.A.No.04 of 2015.

2. The facts in brief culled out from the affidavit enclosed in the writ petition are as follows:

2.1. The petitioner was working as a Deputy Manager in Karur Vysya Bank. Disciplinary proceedings were initiated against him alleging that he has committed certain irregularities at Anna Nagar Branch and charges framed against him and enquiry was conducted and final orders dated 16.12.2013 were passed imposing the punishment of removal from service which shall not be a disqualification for future employment.

2.2. The petitioner has filed an appeal before the first respondent and by an order dated 10.04.2014 the same was dismissed. Subsequently, against the order dated 10.04.2014 an appeal was filed before the third respondent. In the said proceedings before the third respondent authority the petitioner has filed I.A.No.3 of 2015 before the third respondent authority seeking for a direction to the first and the second respondents to produce certain documents before the third respondent authority. But, the same was allowed in part byway of order dated 26.06.2015. Aggrieved by the same, the petitioner has come forward with this writ petition.

3. The learned counsel for the first and second respondents is present and filed counter on behalf of the respondents.

4. It is submitted by the learned counsel for the petitioner that the impugned order dated 26.06.2015 passed by the third respondent directed the first respondents to produce the documents in S.Nos. 7 to 9

alone and rejected the petitioner's request to produce the documents in S.Nos. 1 to 6 and 10 on the ground that they are confidential and privileged documents. It is submitted that the documents in S.Nos. 1 to 6 and 10 are the vital documents to prove the innocence of the petitioner.

5. The learned counsel for the first respondent submitted that in the year 2005, the petitioner was posted as Deputy Manager in Chennai Anna Nagar Branch. During the tenure of Ravi Deenadayalan, Chief Manager, it was found that certain financial irregularities were committed by the petitioner. A show cause notice was issued to him as to why disciplinary action should not be taken against him. As explanations submitted by him were not satisfying, enquiry was initiated and after conclusion of enquiry, the charges leveled against the petitioner were proved and accordingly, he was dismissed from service.

6. In respect of the documents sought to be produced it is further submitted by the learned counsel for the respondents that the order dated 26.06.2015 by the third respondent held that the documents in S.Nos. 7,8 and 9 were general documents and they were ordered to be produced; but documents against S.Nos.1 to 6 were confidential documents and

document in S.No.10 relates to disciplinary action taken against another officer and therefore they cannot be produced.

7. Heard both sides and perused the materials available on record.

8. The petitioner who was working as a Deputy Manager in Karur Vysa Bank has faced disciplinary proceedings. On completion of enquiry, he was removed from service and the petitioner has preferred an appeal No.3 of 2014 before the appellate authorities under Tamil Nadu Shops and Establishments Act, 1947 (herein referred to as 'Act'). During the pendency of the said appeal the petitioner has filed I.A.No.4 of 2015 seeking for a direction to produce ten documents by the second respondent, the Bank.

9. The petitioner has participated in the domestic enquiry before the enquiry officer and he was furnished with all the documents, he was allowed to cross examine witnesses and he was allowed to file the documents. After full fledged enquiry, after giving all opportunities, to the petitioner the enquiry was completed. Therefore, the petitioner has no

grievance in respect of the mode of conducting the enquiry. The petitioner has not sought for the ten documents during the course of enquiry which the petitioner has sought by filing I.A.4 of 2015 before the appellate authority. The documents sought for by the petitioner in I.A.No.4 of 2015 are as follows:

1. The Inspection Report with the notes of the Inspector Anna Nagar, Chennai of the year 2005,2006,2007,2007-2008 and 2008-2009.

2. The Report of surprise Inspection carried out in Anna Nagar Branch, Chennai during January 2006 to March 2009.

3. Inspection Reports conducted by Reserve Bank of India in Anna Nagar Branch, Chennai from 2005-2006 to 2008-2009 along with the relevant notes.

4. Report of Chennai Zonal Manager, conducted every three months while visiting Anna Nagar branch from January 2006 to March 2009.

5. Concurrent Auditors Report of Anna Nagar Branch, Chennai for the period from January 2006 to March 2009.

6. Board Notes regarding dismissal of Mr.Mohan from Anna Nagar Branch, Chennai, which was filed to Reserve Bank.

7. Provisions relating to gratuity of Karur Vysya bank

employees.

8. Rules relating to payment of Provident Funds and interest there on dismissal of employees, who retired from.

9. Bilateral agreement entered in between members of Indian Bank consortium including Karur Vysya Bank and the said Consortium which is in force.

10. Enquiry report conducted against Mr.Ravi Deenadayalan, Ex-Senior Manager, Anna Nagar, Chennai along with enquiry report and his decision of enquiry.

10. Out of these ten documents, Document Nos.7, 8 and 9 were ordered to be given to the petitioner whereas declined to provide Document Nos.1 to 6 and 10. According to the learned counsel for the petitioner, Document Nos.1 to 6 and 10 are also relevant for the charges levelled against the petitioner and that those documents are crucial to prove innocence.

11. I have gone through the impugned order and other connected materials. Document No.1 is Inspection Report of Anna Nagar Branch for the years 2005 to 2009. Document No.2 is the Surprise Inspection report

carried out in Anna NagarBranch from January 2006 – 2009 whereas Document No.3 is Inspection Report conducted by Reserve Bank of India in Anna Nagar Branch for the years 2005 – 2006 to 2008 – 2009. These three documents are basically inspection reports and that are no way connected with the charges levelled against the petitioner. Similarly, Document No.4 is the report of Chennai Zonal Manager, which has been given for every three months whereas Document No.5 is Audit Report of Anna Nagar Branch for the period 2006 – 2009. These two documents are also not relevant to the charges which are levelled against the petitioner. Finally, though it is submitted by the petitioner that the enquiry report in document No.10 is relevant as Mr.Ravi Deenadayalan, has admitted his guilt same cannot be permitted to be given to the petitioner as it is nothing to do with the charges levelled against him. Even if Document No.10 is produced before the authority, it will not in any way exonerate the petitioner from the liability. Therefore, as rightly, observed in the impugned order, Document Nos.1 to 6 and 10 are not only not relevant to the petitioner but they are highly confidential documents. Further Document No.10 is in respect of enquiry of one Ravi Deenadayalan, thereby, without hearing Mr.Ravi Deenadayalan, the enquiry report pertaining to him cannot be given to the petitioner.

12. The learned counsel for the respondents has cited a Division Bench judgment dated 03.03.1973 which are held as follows:

> *"10. Now, it is not really necessary to consider authorities for the proposition that before any Tribunal can order production and inspection of documents it must be satisfied as to the relevancy of the documents called for. In order to determine the relevance, there must be material before the Tribunal the applicant must place it before the Tribunal, and this he can do by setting out in the application the necessary facts, the necessary contentions as to the nature of the documents, the necessity for their production, what kind of reliance he wishes to place thereon and what is the case which he wishes to make out."*
>
> *12. Now, in our view, it is settled position in law that a party to any litigation cannot be permitted to embark on a fishing or roving inquiry in the hope that some material will come to hand on the basis of which he can set out a case. We do not wish to say that in a proper case, after the necessary materials is on record, the Tribunal Cannot order production of relevant documents which would be necessary for the purpose of the adjudication. But before that can be done it would be the duty of the party asking for production of documents to make out a case why it would be necessary for certain documents to be produced."*

13. In view of the above, there is no perversity in the impugned orders and thereby, this Court is in agreement with the orders passed by

the appellate authorities under the Act and there are no merits in this writ petition and thereby, direction cannot be given to the respondents to call for the documents.

14. Accordingly, this writ petition is dismissed. Connected M.P.is closed. No costs.

11.06.2024

vca
Index : Yes/No
Internet : Yes/No
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