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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:- 18.10.2022

+ W.P.(C) 14727/2022 & CM APPL. 45235/2022 (stay)
SAKET KUMAR SHARMA Petitioner
Through: Mr.Siddharth & Mr.Amit Kumar
Agrawal, Advs.

versus

RESERVE BANK OF INDIA & ORS. Respondents
Through: Mr.Ramesh Babu MR, Ms.Nisha
Sharma & Ms.Manisha Singh, Advs. for R-1 & 2

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL.45234/2022, CM APPL.45236/2022 & CM APPL.45237/2022

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

W.P.(C) 14727/2022 & CM APPL. 45235/2022 (stay)

3. The petitioner, who is working as a Director in the respondent no.1/Bank, has approached this Court seeking the following reliefs:-

“a. Set aside the memorandum of charges dated 02.08.2021 issued against the petitioner (Annexure P-17 at (pp. 390-398)) and the document titled “Revised chargesheet” dated 25.07.2022 (Annexure P-19 at (pp. 423-430)), as ultra vires RBI (Staff) Regulations 1948,

b. or in the alternative to prayer “a”, hold regulations 31, 33, 34 and 47(1) of RBI (Staff) Regulations 1948 as violative of Article 14 and clauses (a) and (g) of Article 19(1)(a) and Article 21 of Constitution of India.

c. Set aside the record of proceedings issued by the enquiry on 29.09.2022, annexed as Annexure P-22 at (pp. 479-492) as ultra vires the Master Circular of Staff

Discipline 2022 issued by RBI and violative of Article 14, clause (g) of Article 19(1) and Article 21.

d. Set aside the disciplinary proceedings initiated against the petitioner.

e. Pass such other orders as may be deemed appropriate.”

4. It is the common case of the parties that in 2019, the Public Credit Registry Division of the respondent no.1 in 2019, contemplated to table a bill on the public credit registry. The Director General of the said division, Mr. Indrajit Roy shared some information regarding the same with the petitioner, who further indulged in discussions with respondent no.5/ Member of Parliament (hereinafter, MP) regarding the recommendations of the High Level Task Force on Public Credit Registry for India. Based on these discussions, the respondent no.5, in 2019, introduced a private member Bill in parliament for establishment of Public Credit Registry

5. On 16.10.2020, the respondent no.1/ RBI, upon noticing similarities between the private member bill introduced by respondent no.5 and the one being drafted by the RBI on public credit registry issued show cause notices to the petitioner and Mr. Indrajit Roy requiring them to explain as to whether any confidential information had been supplied by the petitioner or Mr. Roy to the MP who had introduced the private member bill. Mr. Roy replied to the show cause notice by stating therein that he had only shared some information with the petitioner and that too already in the public domain. However, the petitioner, in his reply, while admitting that he had made certain discussions with respondent no.5 on the basis of information already available in the public domain, denied having divulged any confidential information to him.

6. Upon finding the petitioner's reply to be unsatisfactory, the respondent no.1, on 02.08.2021, issued a memorandum to the petitioner on the ground of having committed misconduct and indiscipline by violating the provisions of the Reserve Bank of India (Staff) Regulations, 1948. The petitioner's reply submitted on 15.08.2021, wherein he had denied the charges, was not found to be satisfactory and therefore, the revised impugned chargesheet was issued to him on 25.07.2022.

7. Learned counsel for the petitioner vehemently submits that while issuing the impugned chargesheet, the respondent no.1 has failed to appreciate that regulation 33, which the petitioner is alleged to have been violated, is a penal provision and therefore, has to be considered strictly. Even if the petitioner's conduct was perceived as undesirable, the same would not amount to misconduct under the Regulations as there was nothing to show that the petitioner had indulged in any acts which were detrimental to the interests and functioning of RBI. Once it is evident that the petitioner had only shared that information which was available in public domain with respondent no.5, no charge against him was made out. Merely because the petitioner engaged in discussions with respondent no.5 and helped him to draft the private bill to be tabled in the Parliament would not, in itself, tantamount to disclosure of confidential information relating to the functioning of the bank, in respect whereof, he was expected to maintain secrecy.

8. Without prejudice to his aforesaid submissions that no misconduct was made out against the petitioner, learned counsel for the petitioner submits that the initiation of the departmental inquiry against the petitioner is a clear case of discrimination. He contends that while the petitioner is

being made to face a departmental inquiry, no such action has been taken against a similarly placed officer Mr.Indrajit Roy, who had unauthorizedly shared information with the petitioner, as he has been let off with a simple caution.

9. On the other hand, Mr. Ramesh Babu MR, learned counsel for the respondents, appearing on advance notice, opposes the writ petition by contending that all these aspects will be duly considered in the departmental inquiry in which the petitioner will have adequate opportunity to raise every defence. He further submits that in the light of the petitioner's admission that he had helped respondent no.5 in drafting a private bill to be presented in the Parliament on the same subject on which a bill was being prepared by the bank in itself shows that the actions of the petitioner were detrimental to the interests of the respondent bank. He, therefore, contends that the petitioner's plea that he was not in breach of Regulation 33, is clearly misconceived.

10. He further submits that the petitioner's comparison with Mr. Indrajit Roy is also wholly misplaced as even though, Mr. Indrajit Roy had shared some information with the petitioner, the same was only to help him to brief the Government's representatives on the subject. On the other hand, the petitioner had not only shared the information with a rank outsider, but had also helped him prepare a private bill to be presented in the Parliament and that too on a subject on which the respondent bank was preparing a bill. He, therefore, prays that writ petition be dismissed.

11. Having considered the submissions of learned counsel for the parties and perused the record, I find absolutely no merit in the writ petition. It is an admitted position that the departmental inquiry against the petitioner has

commenced only recently and vide order dated 29.09.2022, the inquiry officer has directed the Presenting Officer to tender evidence in support of the charges levelled against the petitioner.

12. It is therefore clear that the petitioner has come to this Court at a premature stage when the inquiry has just commenced. It is trite law that the Court should generally not interdict the departmental proceedings initiated against an employee unless a case of gross perversity or high handedness is made out. In the present case, in the light of the petitioner's own case before this Court that he had assisted respondent no.5 in drafting the private Bill, on the aspect on which the petitioner's employer i.e. respondent/Bank itself was drafting a Bill, the less said, the better at this stage. The explanation sought to be furnished by the petitioner that most of the information shared by him with the MP was already in public domain is also an aspect which the Inquiry Officer is expected to consider in detail. In my considered view, it would not be appropriate for this Court to examine this aspect at this premature stage lest prejudice is caused to the petitioner in the inquiry proceedings. I, therefore, do not see any reason to interfere with the impugned chargesheet or the departmental proceedings at this stage.

13. The writ petition, being meritless, is dismissed. It is, however made clear that the dismissal of the present petition would not preclude the petitioner from raising the grounds raised in the present petition either before the inquiry officer or before a competent Court after a final order is passed in the departmental proceedings.

(REKHA PALLI)
JUDGE

OCTOBER 18, 2022/kk