
(1992) 06 BOM CK 0003
In the Bombay High Court
Case No : Writ Petition No. 198 of 1992

Adolfo Vaz

APPELLANT

Vs

Bank of Baroda and others

RESPONDENT

Date of Decision : 30-06-1992

Acts Referred:

Citation : (1993) 2 LLJ 232

Hon'ble Judges : G.D. Kamat, J;A.D. Mane, J

Bench : Division Bench

Advocate : B. Menezes, for the Appellant; R.M.S. Khandeparker, for the Respondent

Judgement

G.D. Kamat, J.—Rule, by consent to be heard forthwith. Petitioner is working as a Special Assistant in the Bank of Baroda, respondent No. 1. According to the petitioner he had highlighted certain irregularities and illegalities committed at the Margao branch of the bank to superior authorities, as a result of which the petitioner is being harassed. Petitioner further says that he has now been charge-sheeted by the charge-sheet dated January 31, 1992, wherein several charges have been levelled against him. It is common ground that Shri G. S. Joshi, Senior Manager of the Bank of Baroda, Kolhapur Branch, has been appointed as the Inquiry Officer. By his letter dated May 6, 1992, petitioner wrote to the Regional Manager for permission to engage the services of a lawyer to defend him in the disciplinary proceedings. By the communication dated May 7, 1992, the Regional Manager rejected the petitioner's request for engaging the services of a lawyer, but however, advised the petitioner that in terms of the provisions of the Bipartite Settlement, the petitioner is at liberty to be represented by the representative of a registered trade union of bank employees of which the petitioner is a member. The petitioner says that he is a member of the Goa Bank of Baroda Congress, a union of the employees of the bank, but however, that union has declined to render services of a representative of the union to defend the petitioner before the Inquiry Officer. It must, however, be stated in all

fairness that this averment is not found in the petition and it has been mentioned across the Bar.

2. According to the petitioner, looking to the serious nature of the charges made against him in the charge-sheet dated January 31, 1992, the petitioner will not be able to defend himself before the Inquiry Officer, and, in the event the charges are held proved against the petitioner, the petitioner is likely to suffer serious consequences including criminal prosecution. Mr. Menezes, learned counsel for the petitioner, says that even under para 19.12 of the Bipartite Settlement between the bank and its employees, there is no total prohibition for engaging an advocate for defending a delinquent officer before the Inquiry Officer. The same is, however, subject to permission being granted by the bank. Mr. R. M. S. Khandeaparkar, learned counsel appearing for the respondents, has urged that it is entirely in the discretion of the bank to accord permission or not to a delinquent officer to engage the services of a lawyer and this is clear from para 19.12 of the Bipartite Settlement. In addition, he says that the Division Bench of this Court has also ruled that no delinquent officer as a matter of right can claim the services of a lawyer.

3. We do not propose to go into any of the contentions at this stage since a statement has been made that the union of which the petitioner is a member, has declined to offer its representative and having regard to the peculiar facts of this case we find no difficulty in allowing the petitioner to engage the services of a lawyer and with this it is also open to the bank to have a lawyer to represent the bank before the Inquiry Officer. It is, however, not possible for us to ignore a point made by Mr. Khandeaparkar that when lawyers are engaged, inquiry proceedings are dragged on for months and years together. We are not able to easily brush aside what has been pointed out to us and with a view to obviate any delay, a suitable direction can be given in the matter. Such a direction is also necessary in the matter for one more factor and that is, when petitioner was called upon to appear for preliminary hearing on April 25, 1992 at Kolhapur, the petitioner did not attend the proceedings before the Inquiry Officer. Mr. Menezes has made a statement that the petitioner had no notice requiring the petitioner to appear on April 25. The further fact remains that even before the next date had arrived for the petitioner to appear before the Inquiry Office, he rushed to this Court and an interim order was obtained from the vacation Judge. The petitioner is permitted to be represented by a lawyer at his cost. The Inquiry Office Shri G. G. Joshi, is directed to complete the inquiry within eight weeks from today. The Inquiry Officer shall not entertain any application at the behest of the lawyers for adjournment except on some personal grounds. The bank is also equally at liberty to be represented by a lawyer. To the extent indicated, rule is made absolute. There shall be no order as to costs.