

(1982) 08 AP CK 0019

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5371 of 1982

In Re: A.K. Soundrarajan

Date of Decision : 17-08-1982

Acts Referred:

State Bank of India Act, 1955 — Section 49

Citation : (1983) 2 LLJ 198

Hon'ble Judges : Ganghadhar Rao, J

Bench : Single Bench

Judgement

1. The petitioner is a Technical Officer in the State Bank of India, Hyderabad. On 27th August, 1980 he was drawing a basic salary of Rs. 2,000/- and a gross salary of Rs. 3,150/-. On 27th August 1980 he was kept under suspension pending enquiry into certain charges. A charge-sheet was issued to him on 23rd April, 1982. On 7th June, 1982 he received a notice from the Chief General Manager of the State Bank of India, Local Head Office, stating that an enquiry would be held by Sri R. K. Prasad, Officer, Junior Management Cadre of State Bank of India, Hyderabad Branch. He represented by his letter dated 18th June, 1982 that the enquiry should be conducted by the Commissioner for Departmental Enquiries of Central Vigilance Commission, and also that the Enquiry Officer was biased against him. On 6th July, 1982, the Chief General Manager stated that he could not accede to his request. However, he changed the Enquiry Officer and appointed Sri A. Sreenivasulu, Officer (S.M.G.IV) as Inquiring Authority. The petitioner again represented on 11th July, 1982 to the Chief General Manager, State Bank of India, that it would be more appropriate to entrust the enquiry to the Commissioner for Departmental Enquiries. The Chief General Manager by his letter dated 14th July, 1982 replied that the petitioner should attend the enquiry before Sri A. Sreenivasulu. Sri A. Sreenivasulu the Enquiring Officer issued the notice dated 27th July, 1982 calling upon the petitioner to attend the enquiry before him on 10th August, 1982. Thereafter, he has filed this writ petition to give a direction to the Enquiry Officer Sri A. Sreenivasulu, to forbear from holding the enquiry.

2. It is submitted by the learned counsel for the petitioner, Shri D. V. Reddi

Pantulu, that the State Bank of India has consulted the Central Vigilance Commission before the charges were served on the petitioner, that the Public undertakings, including the State Bank of India, have agreed to seek advice of the Central Vigilance Commission and subjected themselves to its jurisdiction. It is stated that the Central Vigilance Commission under the powers delegated to it by the Government of India has appointed the Departmental Enquiry Officers designated as Commissioners for Departmental Enquiry, and cases for departmental action involving persons drawing Rs. 1,000/- and above should be enquired into by the Commissioner for Departmental Enquiry. It is submitted that on 28th September, 1967, it was decided by the Ministry of Home Affairs in consultation with the Central Vigilance Commission that vigilance cases of personnel of Public Sector Undertakings (like State Bank of India) who could generally be regarded as belonging to the officer grade and drawing approximately pay of Rs. 1,000/- and above and of Government servants on deputation to Public Sector Undertaking should be referred to the Commissioner, and also that the enquiries involving vigilance angle in the case of Public Sector Undertakings, corporate bodies etc., having status comparable to that of Gazetted Officers should be entrusted to one of the Commissioners for Departmental Enquiries in the Central Vigilance Commission. Therefore, it is argued that the enquiry to be conducted against the petitioner by an officer of the State Bank of India is bad, and it should be conducted only by the Commissioner for Departmental Enquiry of the Central Vigilance Commission.

3. The letters of the Central Vigilance Commission dated 20th July, 1965 and 31st August, 1967 and of the Ministry of Home Affairs dated 28th September, 1967 are placed before me. The letters of the Central Vigilance Commission dated 31st August, 1967 refers to the recommendation Nos. 75(viii) and 97 of the Report of the Santhanam Committee, which are reproduced therein. Then it is stated that the two recommendations were considered and decisions were taken in consultation with the Ministry of Home Affairs, in respect of Gazetted Officer (and officers of comparable status in Public Sector Undertakings, corporate bodies etc.,) cases involving lack of integrity or an element of vigilance should be entrusted to a Commissioner for Departmental Enquiries for oral enquiries in accordance with the Commission's Circular dated 20th July, 1965. Disciplinary proceedings without any vigilance angle should normally be entrusted to Departmental Officers for oral enquiry. However, in cases where the disciplinary authority feels that the issues are complicated or have peculiar features, the authorities may approach the Central Vigilance Commission setting out facts in detail and request for nomination of a Commissioner for Departmental Enquiries.

4. A reading of these decisions shows that they are only recommendatory; they do not have statutory force.

5. State Bank of India was constituted under the State Bank of India Act, 1955. S. 49 of that Act gives powers to Central Government to make rules to carry out

the purposes of the Act. R. 50(2)(ii) of the State Bank of India (Supervising Staff) Service Rules., which came into force with effect from 1st July, 1975 provides that whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct against an employee, it may itself enquire into, or appoint any other employee or a public servant (hereinafter referred to as the Inquiring Authority) to inquire into the truth thereof. In view of this rule, the Disciplinary Authority can appoint another employee as Inquiring Authority to inquire into the charges. R. 52 of the Rules says that the Bank shall consult with the Central Vigilance Commission, wherever necessary, in respect of all disciplinary cases having vigilance angle. In view of this rule, the Bank has to consult the Central Vigilance Commission in all disciplinary cases having vigilance angle. In this case the Vigilance Commission was consulted. These are statutory rules. The recommendations of the Vigilance Commission cannot override the statutory rules. In view of R. 50(2) (ii) of the Rules, I hold that the enquiry by Sri A. Sreenivasulu, Manager, International Banking Division, Hyderabad Branch, Hyderabad (2nd respondent) is valid.

6. Consequently, the writ petition is dismissed.