

HARINARAYAN SHRIVASTAV

A

v.

UNITED COMMERCIAL BANK AND ANR.

MARCH 31, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

B

*Service Law—Domestic Enquiry—Engagement of services of an advocate—Permissibility of—Bank-Employee—Misconduct of Sanctioning fictitious loan for non existing person—Departmental enquiry—Charge sheet also filed in criminal court for self same offence—Permission to engage advocate for domestic enquiry—Rejection—Appeal against—Held the allegations are very simple and they are not complicated—Under these circumstances, the failure to permit the petitioner to engage an advocate is not violative of the principles of the natural justice.*

C

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 8329 of 1997.

D

From the Judgment and Order dated 28.10.96 of the Madhya Pradesh High Court in W.P.No. 4472 of 1996.

B.S. Banthia for the Petitioner.

E

The following Order of the Court was delivered :

Delay condoned.

This Special Leave Petition arises from the judgment of the single Judge of the Madhya Pradesh High Court, Jabalpur Bench, made on 28.10.1996 in W.P. No. 4472/96.

F

A Charge-sheet has been given to the petitioner on the allegation that he sanctioned loan for non-existing fictitious persons and got disbursement of demand drafts mentioned in the chargesheet within two days, i.e. December 10, 1990 and December 11, 1990 in favour of *M/s. Sudarshan Trading Co.* of Bhopal for Rs. 2,80,000/- . On the basis thereof, the respondents imputed that the petitioner committed the misconduct. An enquiry had been initiated and is now being proceeded against him. He filed an application for permission to engage the services of an advocate.

G

H

- A The permission was refused. In the writ petition, the petitioner contended that the chargesheet was filed against him in the criminal court for the self-same offence. In view of the fact that the matter is pending in the Criminal Court, an assistance of the advocate is necessary. Since presenting officer of the Bank is a law graduate, denial of the assistance of an advocate is violative of principles of natural justice. The High Court has held that since the facts are not complicated and the presenting officer of the Bank is not legally trained person, assistance of an advocate is not mandatory in the domestic enquiry. On these simple facts, he could himself or through any other employee defend the case without the assistance of an advocate. On that basis, the High Court has held that denial of assistance of an advocate is not violative of principles of natural justice.
- B
- C

- Learned counsel for the petitioner contends that since the chargesheet has already been filed and criminal trial is pending, any enquiry conducted against the petitioner himself or any of the officer, as notified in para 19.12 of the bi-partite settlement, would prejudicially affect the petitioner's case and therefore, the denial of the assistance of an advocate is violative of the principles of natural justice. We find no force in the contention.
- D

- As per the Rule 19.12 of the bi-partite Settlement, the permission to defend himself with the assistance of the advocate is one of the option to be given by the Bank. We have perused the chargesheet in the enquiry now sought to be proceeded against the petitioner. The allegations are very simple and they are not complicated. Under these circumstances, we do not think that the failure to permit the petitioner to engage an advocate is violative of the principles of the natural justice.
- E

- F The special leave petition is accordingly dismissed.

T.N.A.

Petition dismissed.