

Wednesday, 15.7.2015

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1591 OF 2015

Surendra Ramchandra Ahire
: V/S :
General Manager, Pune District
Central Co-operative Bank

....Petitioner

.....Respondent

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Mr. Ashok S. Bhosale, Advocate for the petitioner.
Mr. Kiran Bapat a/w. Mr. Jayesh Desai i/by. Desai & Desai and
Associates, Advocate for respondent no.1.

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Coram :- Smt. R.P. SondurBaldota, J.

15th July, 2015.

P.C. :-

1). The petitioner was working with the respondent, bank as a Clerk-cum-Cashier. His services were terminated on 7th May, 2004 on account of misconduct after holding due enquiry against him. Thereafter, he filed application (BIR) No. 5 of 2004 seeking reinstatement with continuity of service and full backwages. The Labour Court, by its judgment and order dated 19th June, 2008 dismissed his application. He then preferred an appeal to the Industrial Tribunal being Appeal (BIR) No. 4 of 2013. The Tribunal dismissed the Appeal by its judgment and

order dated 15th September, 2014. These two orders are impugned in the present petition.

2). The appellant had allegedly misappropriated a sum of Rs.65,000/-. His modus-operandi was whenever the constituents of the bank deposited amount in cash, he would not make the entries in their respective Accounts but would retain the amount with himself for some time. Later, when the misappropriation was found out, he had admitted his guilt to the respondent and has also returned the amount of misappropriation to the respondent. Despite admission of the guilt, the respondent held enquiry against him and later dismissed him from service.

3). Mr. Bhosale, the learned Advocate appearing for the petitioner, submits firstly that, it was necessary for the respondent to complete the entire enquiry against the petitioner within a period of 6 months as required under Section 78(1) of the Bombay Industrial Relations Act. According to him, non-compliance of the provision has rendered the impugned orders illegal.

4). The Courts below have noted that the chargesheet had been served upon the petitioner soon after the discovery of misappropriation. It has also been noted that, admittedly the enquiry had been delayed on account of the petitioner himself. Consequently, it is not open for the

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petitioner to raise any grievance as regards the delay in completion of the departmental enquiry. Therefore, there can be no substance in this submission of the petitioner.

5). The second submission of the petitioner is about imposition of punishment of termination from service. Mr. Bhosale submits that since the petitioner had admitted the guilt and also repaid the entire amount of misappropriation, the punishment meted out to him, should not have been of termination from service and the respondent could have given him some other punishment. There can be no substance in this submission either because, the nature of the act indulged into by the petitioner must have obviously resulted into loss of trust for the respondent bank. In that circumstance, the punishment awarded to the petitioner cannot be said to be disproportionate. It is entirely upto the respondent to give or not to give a second chance to the petitioner. If the Bank has chosen not to give him a second chance, there can be no infirmity in the decision. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)