

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NOS.6125 AND 18687 OF 2005

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W.P.No.6125 of 2005

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Between:

The Regional Manager, Central Bank of India,
Bank Street, Koti, Hyderabad-500 020 .. Petitioner

and

The General Secretary, Andhra Pradesh Bank
Workers Organization and another .. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 13th OCTOBER, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

1. Whether Reporters of Local newspapers may be allowed to see the judgment? Yes/No
2. Whether copies of the judgment may be marked to Law Reporters/Journals Yes/No
3. Whether His Lordship wishes to see the fair copy of the judgment? Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NOS.6125 AND 18687 OF 2005

COMMON ORDER

The Award dated 10.03.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, in I.D.No.8 of 2001 is subjected to challenge by both parties thereto. W.P.No.6125 of 2005 was filed by the employer, the Central Bank of India, Hyderabad, through its Regional Manager, while W.P.No.18687 of 2005 was filed by the General Secretary, Andhra Pradesh Bank Workers Organization, Hyderabad, espousing the cause of the workman.

By the Award under challenge, the Tribunal directed the Central Bank of India to pay 10 months gross pay to the workman to meet the ends of justice, while holding that its action in terminating his services was legal and justified. Objecting to the direction to make such payment even after finding that the termination of the services of the workman was legal and justified, the Central Bank of India is before

this Court, while aggrieved by the denial of the reliefs prayed for, the Union, espousing the cause of the workman, filed the other writ petition.

By order dated 24.03.2005 passed in W.P.M.P.No.8135 of 2005 in W.P.No.6125 of 2005, this Court granted interim suspension of the Award for a period of six weeks and the said order was directed to be continued during the pendency of the writ petition, by subsequent order dated 26.06.2007.

Perusal of the Award under challenge reflects that the matter came before the Tribunal upon a reference made by the Government of India under Section 10(1)(d) of the Industrial Disputes Act, 1947 (for brevity, 'the Act of 1947'). This reference reads as under:

‘Whether the action of the management of Central Bank of India, Hyderabad in terminating the services of Sri T. Srinivasa Rao, Attender is legal and justified? If not, what relief the workman is entitled to?’

The workman, T. Srinivasa Rao, was an Attender in the service of the Central Bank of India at its Begumbazar branch. He was assigned the duties of a Dafthari. He allegedly manipulated certain bills with regard to purchase of stationery and gas whereby he claimed excess amounts and utilized the same. He was issued a charge sheet, whereunder two charges were leveled against him. The gist of these charges was that he had misappropriated bank funds by tampering P & L vouchers relating to supply of table stationery and other items to the extent of Rs.1,162/- and fraudulently received a sum of Rs.2,858.10 ps. without bills. An Enquiry Officer was appointed to look into these allegations and pursuant to his report dated 24.03.1996, the workman was dismissed from service under order dated 28.05.1996. The same was confirmed in appeal on 22.10.1996. As conciliation proceedings failed before the Regional Labour Commissioner concerned, the reference was made.

The Tribunal, by order dated 29.04.2002, held that the enquiry conducted against the workman was invalid. The bank therefore adduced oral and documentary evidence before the Tribunal to justify its action against the workman. Upon examination of the oral and documentary evidence, the Tribunal, on the one hand, observed that the bank had committed fault in not examining the person who issued Ex.M.10, but finally recorded that the workman had doubtful integrity as he had given wrong educational qualifications for gaining employment. No clear finding

was returned by the Tribunal as to whether the charges leveled against the workman were established by the bank through examination of three witnesses and marking of 50 documents. The alleged past misconduct of the workman was not part of the charges leveled against him. It was therefore not open to the bank to seek support from such past misconduct and the Tribunal ought not to have been swayed by the same. Such past misconduct necessarily had to be eschewed from consideration as it did not form part of the disciplinary proceedings which were the subject matter of the reference. However, the Tribunal lost sight of this legal position and seems to have been influenced by the material placed before it by the bank in this regard and finally concluded that the integrity of the workman was doubtful on the basis of this past misconduct, in connection with the false educational qualifications produced by him for gaining employment. The Tribunal, without even rendering a finding as to the validity of the action of the bank in terminating the services of the workman, granted relief to him only upon sympathetic considerations. The ambiguity in the reasoning of the Tribunal in this regard is clear from the following observations:

‘No doubt there is some fault on the part of the Respondent bank in not examining the person who has issued Ex.M10. No doubt the author of Ex.M10 was not examined which would have been done so. But it is crystal clear that the Petitioner has a doubtful integrity as he has given wrong qualifications that he has passed 7th or 8th class, when he has passed 10th class for gaining employment. No doubt, in this case it should not be proved beyond reasonable doubt as in a criminal case. If it is proved if the probabilities are so it is sufficient. But however, the Petitioner has worked from 1.7.76 as attender and assigned the duties of Daftry in the year 1990 and dismissed on 28.5.96. So he has put in from 1.7.76 to 28.5.96, he is aged about 53 years. But for these latches which are not conclusively proved but there is every probability seeing his past conduct also, I am of the opinion that reinstating him back will not be proper. Hence, But some compensation can be given to him as he has worked for almost 20 years giving him 10 months gross pay last drawn would meet the ends of justice. Hence, I hold that the action of the Management of Central Bank of India, Hyderabad in terminating the services of Sri T. Srinivasa Rao is legal and justified, however he is entitled for 10 months gross pay calculated as per last drawn pay, to be paid within 30 days from the publication of this award failing which he will be entitled to 12% interest per annum on the said amount after 30 days of the publication of this award.’

(emphasis added)

Needless to state, when it was answering a reference under Section 10(1)(d)

of the Act of 1947, the Tribunal had to return definite findings and answer the reference clearly and unequivocally. The subject Award falls woefully short in that regard. The irregularity committed by the Tribunal in taking into account the workman's alleged past misconduct and in not answering the reference as required by law, leave this Court with no option but to set aside the Award under challenge and remit the matter to the Tribunal for consideration afresh in accordance with law. Given the fact that the bank was already given an opportunity to adduce oral and documentary evidence in justification of its terminating the services of the workman, the Tribunal shall consider such evidence afresh and after giving an opportunity of hearing to both parties, answer the reference by way of a reasoned Award.

The writ petitions are accordingly allowed to the extent indicated above. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

13th OCTOBER, 2015

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