

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.A. No.67 of 2016 and C.M.P. No.851 of 2016

1 State Bank of India
represented by its Deputy General Manager
Industrial Finance Branch
155 Anna Salai
Chennai 600 002

2 The Assistant General Manager and
Chief Operating Officer
State Bank of India
Industrial Finance Branch
155 Anna Salai
Chennai 600 002

Appellants

Vs.

1 The Presiding Officer
Central Government Industrial Tribunal-
cum-Labour Court
Chennai

2 Shanthi Umapathy

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 09.09.2015 passed in W.P. No.14028 of 2015. WP Prayer: Writ petition praying to issue a writ of certiorari calling for the records of the first respondent in IA No.274 of 2014 in ID No.4/2014 and quash its order dated 19.03.2015.

For appellants

Mr. V. Karthic
for M/s. T.S. Gopalan & Co.

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The instant intra-Court appeal is focussed against the order dated 09 September 2015 rendered in W.P. No.14028 of 2015.

2 For the sake of brevity, clarity and convenience, the parties are referred to as per their rank in the instant intra-Court appeal.

3 A vignette of the facts leading to the filing of the instant intra-Court appeal is that the second respondent-employee raised a dispute being I.D. No.4 of 2014 before the Central Government Industrial Tribunal-cum-Labour Court (for short "the Labour Court") under Section 10(4) read with Section 11 of the Industrial Disputes Act, 1947 (for short "the I.D. Act") against dismissal from service by order dated 23 February 2013. During the pendency of the said dispute, the second respondent-employee filed an Interlocutory Application being I.A. No.274 of 2014, seeking a direction to the appellant bank/Management to pay a sum of Rs.20,000/- as interim relief with effect from 23 February 2013, till the disposal of the dispute. The Labour Court, by order dated 19 March 2015, disposed of the said I.A., in the following terms:

"12. In the present case, the petitioner was paid subsistence allowance while she was under suspension. Since the respondent has given up the enquiry, the petitioner had to defend the case again before this Court. She is now without any employment. She having been terminated from service based on defective enquiry, she is certainly entitled to some amount by way of interim relief. It is stated in the petition that the last drawn wage of the petitioner was s.20,000/- which is not disputed. Considering this, I fix the amount payable to the petitioner as interim relief as Rs.7,500/- per month.

The first respondent is directed to pay the petitioner amount by way of interim relief @ Rs.7,500/- per month w.e.f. 23.02.2013, the date of her termination till the conclusion of the proceedings before this Court."

Thereagainst, the appellant bank/Management preferred the instant writ petition being W.P. No.14028 of 2015. The learned Single Judge, by order dated 09 September 2015, dismissing the

writ petition, held as under:

"6. The second respondent has filed an affidavit and resisted the above writ petition. The second respondent submits that the writ petition filed by the Management is frivolous and it is intended to tire her out for no fault of mine. The second respondent submits that the power of the Tribunal to pass interim orders is now well settled. When the State Bank of India is given liberty to prove the charges, then, she is entitled to some payment by way of interim arrangement to effectively participate in the enquiry. In fact, the second respondent should be really aggrieved by the order of the Tribunal as the Tribunal as directed only a sum of Rs.7,500/- instead of Rs.20,000/-. The second respondent further submits that as a result of the order passed by this Court, she is prejudiced a lot. The total amount payable to her from February 2013 to June 2015 at the rate of Rs.7,500/- per month comes to about Rs.2,10,000/-. Hence, the second respondent entreats the Court to dismiss the above writ petition since the order is only against an interlocutory order directing payment of subsistence allowance."

Feeling aggrieved by the aforesaid order, the Management is before us.

4 The learned counsel for the appellant bank/Management contends that the second respondent-employee was dismissed from service on the ground of obtaining employment on production of fake school certificate. The second respondent-employee is not entitled to any interim relief, till it is established that dismissing her from service was bad in law. There is no provision for grant of interim relief as no order has been passed by any judicial authority in favour of the second respondent-employee.

5 We have examined the contentions put forth by the learned counsel for the appellant bank/Management and also perused the pleadings and documents appended thereto.

6 The dispute qua validity and correctness of the dismissal order is under consideration before the Labour Court. The Labour Court examined the Interlocutory Application preferred by the second respondent-employee in extenso and passed a reasoned order, directing the appellant bank/Management

to pay a sum of Rs.7,500/- per month as an interim relief to the second respondent with effect from the date of dismissal, till the conclusion of the dispute. It is well settled that granting of interim relief during adjudication of dismissal from service is an incidental relief. Thus, we are of the considered view that the Labour Court rightly exercised its power.

7 Insofar as the quantum, it is stated that the second respondent-employee's last drawn wage was Rs.20,000/- per month. By no stretch of imagination, it could be said that fixing a sum of Rs.7,500/- per month towards interim relief is either excessive or unreasonable. The learned Single Judge rightly dismissed the challenge made by the appellant bank/Management. There is no infirmity or illegality or irrationality in the order sought to be impugned in this appeal.

As a sequitur, the instant intra-Court appeal has to suffer dismissal and is accordingly dismissed. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Deputy General Manager
State Bank of India
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155 Anna Salai
Chennai 600 002

2 The Assistant General Manager and
Chief Operating Officer
State Bank of India
Industrial Finance Branch
155 Anna Salai
Chennai 600 002

3 The Presiding Officer,
CGIT Cum Labour Court, Chennai.

+1 cc to M/s.T.S.Gopalan & Co, Advocates, sr.4347

W.A. No.67 of 2016

mg co

kra 04.02.2016