

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.4.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT. TEEKAA RAMAN

Writ Appeal No.1424 of 2014

The Zonal Officer
State Bank of India
No.206, Melur Road
Madurai 625 002.

... Appellant/2nd Respondent

Vs.

1. The Presiding Officer
Central Government Industrial cum
Labour Court
Chennai 600 006.

... Respondent I/Respondent I

2. R.Manickam

... Respondent II/Petitioner

Appeal under Clause 15 of the Letters Patent filed against
the order dated 28.4.2014 made in W.P.No.15031 of 2005.

W.P.No.15031 of 2005, to issue a Writ of Certiorarified
Mandamus, to call for records relating to the Order of the 1st
Respondent made in I.D.No.287 of 2001 dated 12.08.2002 and quash
the same and consequently direct the Respondents to reinstate
the Petitioner with continuity service with all attendant
benefits and extend all benefits both service and monetary
including arrears of backwages etc.,

For Appellant : Mr.S.Kanniah

For Respondent - 2 : Mr.L.Chandrakumar

J U D G M E N T
(Delivered by Huluvadi G.Ramesh, J)

The writ appeal is directed against the order dated
28.4.2014 made in W.P.No.15031 of 2005.

2. We have heard Mr.S.Kanniah, learned counsel for the
appellant and Mr.L.Chandrakumar, learned counsel for the second
respondent.

3. The second respondent joined the services of the appellant Bank in the year 1977 as Clerk cum Cashier. In view of the unauthorised absence by the second respondent, the appellant initiated departmental proceedings against the second respondent. Three charges were framed against the second respondent for absenting himself from duty for a period of 581 days from the years 1987 to 1989, without any intimation to the appellant, for his failure to repay the money borrowed from two persons, resulting in attaching a part of his salary by way of Court order and in issuing Garnishee Order for recovering some amount from his salary and for involving in a criminal case under Section 420 read with Section 34, IPC. Not satisfied with the explanation of the second respondent, enquiry was conducted. The Enquiry Officer found that all the three charges were proved. Therefore, the appellant, after affording an opportunity of personal hearing to the second respondent, discharged the second respondent from the services of their Bank. Aggrieved by the said order, the second respondent preferred an industrial dispute before the first respondent and the same was dismissed. Hence, the second respondent preferred the writ petition.

4. The learned single Judge, after hearing both the parties and perusing the materials placed on record, held that charges 2 and 3 were liable to be dropped and that the first charge amounted only to a minor misconduct and therefore, ordered for reinstatement of the second respondent with continuity of service and other attendant benefits, but without backwages. Assailing the said order, the appellant has come up with the above appeal.

5. It is not in dispute that the second respondent had absented himself unauthorisedly for a period of 581 days from the years 1987 to 1989. Already, the second respondent was imposed with the punishment of stoppage of increment for one year for his act of unauthorised absence. Therefore, unauthorised absence for the subsequent periods cannot be treated again as a charge. Further, the second respondent had not suffered any censure or warning or adverse remarks on three previous occasions for similar minor misconduct and therefore, the question of minor misconduct amounting to gross misconduct does not arise.

6. That apart, it appears that the second respondent has been acquitted from the criminal offence and therefore, the third charge ought to have been dropped by the appellant Bank. As regards the second charge, the borrowal of money by the second respondent from third parties had not caused any loss to the appellant Bank. Thus, it is clear that the misconduct committed by the second respondent is not a gross misconduct and it is only a minor misconduct.

7. We are, therefore, of the considered opinion that the learned single Judge had rightly held that the punishment of discharge from service is too harsh and disproportionate and consequently, quashed the order of the appellant impugned in the writ petition. Thus, we do not find any reason to interfere with the order of the learned single Judge and accordingly, this writ appeal is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kpl

To

The Presiding Officer
Central Government Industrial cum
Labour Court
Chennai 600 006.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.20619

+1cc to Mr.S.Kanniah, Advocate, S.R.No.20675

W.A.No.1424 of 2014

VG II(CO)
CA(03/05/2017)

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