



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 26.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.219 of 2016

P.Johnmilton Easter Raj

.. Appellant/Writ Petitioner

Vs.

1. The Chairman,
Appellate Authority,
Pandyan Grama Bank,
2-70-1, Collectorate Complex,
Administrative Office,
Virudhunagar 625 002.

2. The General Manager/Disciplinary Authority,
Pandyan Grama Bank,
2-70-1, Collectorate Complex,
Administrative Office,
Virudhunagar 625 002.

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order of this Court in W.P.(MD)No.14430 of 2015, dated 12.08.2015 and consequently set aside the orders of the second respondent in Ref.AIVD/194/2014-15 and the order of the first respondent in AIVD/409/15-16, dated 22.06.2015 and to direct the respondents to reinstate the appellant with all monitory and attendant benefits.

Prayer in WP(MD). 14430/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ Certiorarified Mandamus calling for the records relating to the impugned punishment of dismissal in ref. AIVD/194/2014-2015 dated 20.05.2014 of the 2nd respondent and confirmed by the 1st respondent in AIVD/409/15-16 dated 22.06.2015 quash the same and consequently direct the respondents herein to reinstate the petitioner herein with all monetary, attendant benefits and backwages together with interest at 7.5% p.a., within a reasonable time as may be fixed by this Honble court.

For Appellant

: Mr.B.Pugalendhi

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.M.P.Senthil

For Mr.N.G.R.Prasad

**JUDGMENT**

(Judgment of the Court was delivered by **G.R.SWAMINATHAN, J**)

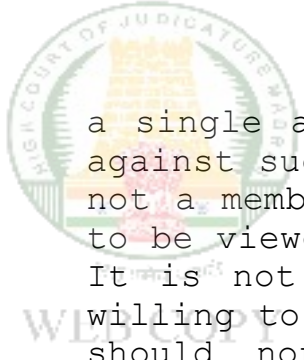
The unsuccessful writ petitioner has filed this intra court appeal questioning the order dated 12.08.2015 made in W.P.(MD) No.14430 of 2015.

2. The appellant was working in Pandyan Grama Bank as Junior Assistant cum Cashier since 1983. His post was re-designated as Office Assistant (multi purpose). The appellant herein had certain disputes with the management. He was transferred from Aruppukktotai to M.Reddiapatti and the appellant herein petitioned the management for reconsideration of the said transfer order. While so, the Branch Manager instructed the appellant to attend to the duty of a cashier. Since the appellant was under mental stress, he did not obey the said order. This led to issuance of the charge memo dated 28.12.2012. Subsequently, disciplinary action was taken and the charge was found to be proved and the appellant was dismissed from service by the order dated 20.05.2014. Questioning the said order passed by the second respondent, an appeal was preferred before the first respondent who by the order dated 22.06.2015 confirmed the order passed by the second respondent. Questioning the same, the appellant filed W.P.(MD)No.14430 of 2015. The learned Single Judge dismissed the said writ petition. Challenging the said order, this writ appeal has been preferred.

3. Heard the learned counsel for the appellant as well as the learned counsel for the respondent Bank.

4. The charge against the appellant is that he was allotted cashier duty with effect from 13.10.2012 and that he did not heed to the same which led to disruption of normal functioning of the Branch. This charge was found to be proved. We do not want to interfere with the said finding. It is not in dispute that the writ petitioner had put in 32 years of service by the time the impugned order of dismissal was passed. The appellant was obviously having certain service issues and he had applied to the management to redress the same. He was awaiting disposal of his representation. Therefore, he made an endorsement in the letter of allotment of duty that after he receives orders from the Chairman, he would do the work. Though the conduct of the appellant cannot be appreciated, we are nevertheless of the view that imposing punishment of dismissal is highly disproportionate to the charges levelled against the writ petitioner.

<https://hcservices.courts.gov.in/hcservices/> It is pertinent to note that employees who go through periods of mental stress, should be appropriately counselled. For



a single act of defiance, extreme punishment of dismissal passed against such employees is unsustainable. Further, the appellant is not a member of uniformed service where insubordination will have to be viewed very seriously. He was after all an Office Assistant. It is not as if the appellant declined to do his work. He was willing to work as Office Assistant and his only stand was that he should not be allotted with the job of handling cash. The appellant was not found guilty of any act of misappropriation or misconduct. He was also at the fag end of his service. In-fact he reached his age of superannuation on 29.02.2016. Considering these mitigating aspects, lenient approach ought to have been adopted.

6. We therefore set aside the order dated 12.08.2015 dismissing W.P(MD)No.14430 of 2015 and also the orders dated 20.05.2014 and 22.06.2015 which were impugned in the writ petition. We remit the matter to the file of the second respondent/Disciplinary Authority for fresh consideration with regard to the quantum of punishment which can be imposed on the appellant. We make it clear that it is open to the second respondent to impose any punishment other than that of dismissal or removal from service.

7. This writ appeal is allowed on the terms indicated above. No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

+1 CC to M/s.M.P.SENTHIL, Advocate, SR No. 68071.

MRN/TA/PSD

PSM/JC/SAR4/17.08.2017/3P/2C

Judgment made in
W.A. (MD) No.219 of 2016
26.07.2017