



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A. [MD] .No.1361 of 2011

and

M.P. (MD) No.2 of 2011

1.The Chairman and Managing Director,
Karur Vysya Bank Limited,
Central Office, Erode Road, Karur.

2.The Executive Director,
Karur Vysya Bank Limited,
Erode Road, Karur - 2.

3.The Deputy General Manager,
(Personnel and Administration),
Karur Vysya Bank Limited,
Erode Road, Karur - 2.

... Appellants/Respondents 2 to 4

Vs.

1.V.Muthusubramanian

2.The Deputy Commissioner of Labour,
(The Appellate Authority under Tamil Nadu
Shops and Establishment Act)
Sundaram Theatre Road,
K.K.Nagar, Madurai - 20.

... Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent Act, to set aside the order dated 25.07.2011 passed in W.P. (MD) No.9130 of 2008 on the file of this Court.

Prayer in WP(MD). 9130/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 26/09/2008 passed in T.N.S.E.No. 12 of 2005 on the file of the first respondent and quash the same and direct the respondents to reinstate the petitioner in service in the 2nd respondent's office with continuity of service, back wages and all attendant benefits.



For Appellants

: Ms.P.malini for M/s.T.S.Gopalan & Co

For Respondents

: Mr.R.Subramaian for R1
R2 - Labour Court

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JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This writ appeal is directed against the order dated 25.07.2011 made in W.P.(MD) No.9130 of 2008 filed by the first respondent herein.

2.The first respondent herein was employed in the appellant bank. He was dismissed from service. Challenging the same, he filed case No.TNSE 12 of 2005 before the Appellate Authority under the Tamil Nadu Shops and Establishment Act, Madurai. The said appellate authority by order dated 26.09.2008 dismissed the appeal.

3.The first respondent herein challenged the same by filing W.P.(MD) No.9130 of 2008. The learned Single Judge noted that the writ petitioner had taken out an application for letting in additional evidence before the appellate authority. The appellate authority dismissed the appeal without taking any decision in the application for additional evidence. Therefore, the order passed by the appellate authority dismissing the appeal was set aside and the case was remitted to his file to decide the appeal afresh after disposing the application filed by the petitioner for letting additional evidence in accordance with law.

4.No exception can be taken to the said reasoning of the learned Single Judge. The matter was rightly remanded. When an application for adducing additional evidence is filed before the appellate authority, the appellate authority will take up the said application along with the main appeal. If the appellate authority is of the view that the appeal can be disposed of without such additional evidence, the said application can be dismissed. If the appellate authority is of the view that for rendering a satisfactory judgment, the additional evidence is necessary, the application can be allowed. The appellate authority can decide the issue one way or the other. But, he must take a decision with regard to the application for additional evidence. Deciding the appeal without taking a decision on the application for additional evidence can only be said to be an improper disposal of the appeal. Therefore, the learned Single



Judge rightly set aside the order of the appellate authority and remitted the matter to his file. This appeal ought not to have been filed at all. The appellant bank by filing this writ appeal has dragged on the matter by six long years. The writ petition was allowed on 25.07.2011. We are in the end of August 2017. In fact, we ought to impose costs on the Bank for filing this frivolous appeal. Finding no merit in this writ appeal, we dismiss the same. The Appellate Authority shall dispose of the appeal after taking a decision on the first respondent's application for adducing additional evidence.

5.The appeal stands dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

The Deputy Commissioner of Labour,
(The Appellate Authority under Tamil Nadu
Shops and Establishment Act)
Sundaram Theatre Road,
K.K.Nagar, Madurai - 20.

+One cc to Mrs.P.Malini, Advocate, SR.No.74407

+One cc to Mr.R.Subramanian, Advocate, SR.No.74502

Arul/skm
RL/4C/3P/GT/SAR1/11/9/2017

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