

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT.JUSTICE T. RAJANI

Writ Appeal No.1019 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred by the petitioner in W.P. No. 21046 of 2011 aggrieved by the order passed by the learned Single Judge in Review W.P.M.P. No. 25121 of 2016 in W.P. No.21046 of 2011 dated 8.12.2016.

Respondent Nos. 4 to 7 herein filed an application to implead themselves as respondents in the writ petition and, by order in W.P.M.P. No. 23395 of 2012 in W.P. No. 21046 of 2011 dated 31.12.2015, the implead application was ordered; and respondent Nos. 4 to 7 in this appeal were arrayed as respondents in the writ petition. Aggrieved thereby, the appellant changed his counsel and filed Review W.P.M.P. No. 25121 of 2016 seeking review of the earlier order passed on 31.12.2015. On the said review application being dismissed, the appellate jurisdiction of this Court, under Clause 15 of the Letters Patent, has been invoked.

The appellant-writ petitioner, an employee of the 1st respondent-bank, was dismissed from service as a measure of punishment by proceedings dated 5.12.2007 which was confirmed in Appeal on 7.7.2011. Aggrieved thereby, he invoked the jurisdiction of this Court, and filed W.P. No. 21046 of 2011 questioning the order of punishment. Respondent Nos. 4 to 7 herein were promoted to the vacancy caused on account of the appellant-writ petitioner's termination from service.

In a writ petition filed against the action of the employer, in terminating the services of an employee as a measure of punishment, the only necessary parties are the employer and the employee. Persons, who are either appointed or promoted to the vacancy caused as a result of the termination of an employee as a measure of punishment, are neither necessary nor proper parties to the writ petition, and cannot claim to be

aggrieved by a challenge to the order of termination by the concerned employee.

Smt. Bobba Vijayalakshmi, learned counsel appearing on behalf of respondent Nos. 4 to 7, would however contend that, if the appellant-writ petitioner had invoked the jurisdiction of this Court in the year 2007 soon after his termination, respondent Nos. 4 to 7 could have been non-suited on the ground of locus standi, but the delay in invoking the jurisdiction of this Court, by more than four years, justified their filing an application to implead themselves as the respondents.

The question whether the writ petition is hit by delay and laches, requiring this Court not to examine a challenge to the order of termination, can also be urged by the employer. That, by itself, does not make respondent Nos. 4 to 7 either necessary or proper parties to the writ petition. While the learned Single Judge has examined the contentions urged on behalf of the appellant-writ petitioner, on whether or not a counter affidavit was filed in the implead application and has held against him in this regard, we see no reason to examine this aspect as we are satisfied that respondent Nos. 4 to 7 herein are neither necessary nor proper parties to the writ petition.

The writ appeal is allowed, and the order passed in Review W.P.M.P. No. 25121 of 2016 and also the earlier order passed in W.P.M.P. No. 23395 of 2012 in W.P. No. 21046 of 2011 dated 31.12.2015 are set aside. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T. RAJANI, J)

25th July, 2017

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Date: 25.7.2017

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