

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.2819 OF 2004

ORDER:

1. This writ petition is filed by the petitioner seeking to set aside the proceedings issued by the 2nd respondent dated 24.10.2003 by holding them as illegal and arbitrary, and consequently, to direct the respondents to reinstate the petitioner into service forthwith with all incidental and consequential benefits including continuity of service in the post of Assistant Manager.

2. Heard Sri A. Satya Prasad and Dr. Vissa Venkateswara Rao, learned Counsel for the petitioner and Sri E. Madan Mohan Rao, learned Counsel for the respondents.

3. It has been submitted by the learned Counsel for the petitioner that the petitioner was initially appointed as Clerk in the respondent-bank in the year 1975 and subsequently, he was promoted as Assistant Manager in the year 1988 and while he was working as Assistant Manager in Nagarkurnool, the respondents issued a charge memo to the petitioner alleging certain irregularities in issuance of term deposit receipts, for which the petitioner submitted his explanation, and not being satisfied with the said explanation, the disciplinary authority initiated disciplinary proceedings by appointing an enquiry officer, and after conducting a regular enquiry, the disciplinary authority imposed major punishment of dismissal from service vide proceedings dated 24.10.2003. It has further been submitted that no financial loss was caused to the bank and that the imposition of major penalty of dismissal is disproportionate to the charges leveled against the petitioner and that no opportunity was given to the

petitioner during the course of enquiry and that the disciplinary authority has mechanically imposed punishment of dismissal from service and that no show cause notice was issued before imposing major penalty of dismissal from service.

4. The learned Counsel for the respondents submits that the enquiry officer gave a finding that the charges were proved against the petitioner, and after considering the said report, the disciplinary authority imposed punishment of dismissal and that every opportunity was given to the petitioner during the course of enquiry and that there are no merits in the present writ petition.

5. I have considered the rival submissions made by the parties. One of the submissions made by the learned Counsel for the petitioner is that the respondent-Bank initiated the criminal proceedings against the petitioner for the alleged misconduct by lodging a complaint and that the Judicial Magistrate of First Class at Nagarkurnool acquitted the petitioner in criminal case viz., C.C.No.377 of 2005 vide judgment dated 6.1.2011. The learned Counsel for the petitioner contends that when a criminal court acquitted the petitioner, in all fairness the disciplinary authority ought to have reconsidered the issue and reinstated the petitioner. I have considered the merits of the case. Mere acquittal in a criminal case would not entitle a person to be reinstated into service by setting aside the order of dismissal. The dismissal order was passed basing upon full-fledged enquiry after giving every opportunity to the petitioner. The learned Counsel for the petitioner relied upon the judgments in **Capt. M. Paul Anthony Vs. Bharat Gold Mines Limited and another¹** ; and **G.M. Tank Vs.**

¹ (1999) 3 SCC 679

State of Gujarat and others². The above said judgments relied upon by the learned Counsel for the petitioner may not be helpful to the petitioner because the respondent-bank had conducted a domestic enquiry. In departmental enquiry, the burden is on the petitioner to prove that he is not guilty, whereas in criminal proceedings, the burden to prove that the accused is guilty, heavily casts upon the prosecution. In the matters when there is any loss of trust and confidence on the petitioner, even though the petitioner was acquitted in criminal Court, it may not be of any help to the petitioner. There are no merits in the present writ petition.

6. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

21st December, 2017
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(ABHINAND KUMAR SHAVILI, J)

² (2006) 5 SCC 446

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