IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5675 of 2018

T.Kathirvel .. Petitioner

-vs-

1. The Regional Manager
   (Disciplinary Authority)
   State Bank of India
   Region-IV, Regional Business Office
   Administrative Office
   No.21, Mc Donalds Road
   Tiruchirappalli 620 001

2. Deputy General Manager
   (Business and Operations)
   (Appellate Authority)
   State Bank of India
   Disciplinary Proceedings Cell
   Administrative Office
   Tiruchirappalli Zone
   No.21, Mc Donalds Road
   Tiruchirappalli 620 001

3. The Presiding Officer
   Central Government Industrial Tribunal
   cum Labour Court
   Shastri Bhavan, Haddows Road
   Chennai 600 006 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records from the file of the third respondent in I.D.No.36 of 2016 and quash its impugned award dated 20.07.2017 insofar as the third respondent has negatived the claim of the petitioner for reinstatement in service with continuity of service, with back wages and with all other attendant and consequential benefits.

For Petitioner :: Mr.K.M.Ramesh

ORDER

This writ petition has been filed challenging the correctness of the impugned award passed in I.D.No.36 of 2016 dated 20.7.2017 on the file of the third respondent.

2. Learned counsel for the petitioner, assailing the impugned award, pleaded that the petitioner was serving as a Special Assistant in Valajanagaram branch. For some alleged misconduct, he was placed under suspension and he was also issued with a charge sheet alleging that he had passed plain debit vouchers used for withdrawing cash from the savings bank account of KCC borrowers without the signature of the account holders and also made cash payment to another staff member of the same branch in Asaveerankudikadu branch and thereby acted in a manner prejudicial to the interest of the bank. The petitioner, serving only as Special Assistant, denying the said charges, gave a detailed explanation. But the disciplinary authority, refusing to accept the explanation, appointed an enquiry officer and finally the enquiry officer, on completion of the enquiry, submitted his report holding the petitioner guilty of the charges with a specific finding that the acts committed by the petitioner would tantamount to gross misconduct, in terms of clause 5(j) of the Memorandum of Settlement dated 10.4.2002. When the only charge levelled against the petitioner shows that he had passed plain debit vouchers used for withdrawing cash from the savings bank account of KCC borrowers without the signature of the account holders and has made cash payment to another staff member of the same branch, the petitioner, having given his detailed explanation and also stated during his cross examination in the enquiry that he was conversant with the signature of DW2, but he did not notice the absence of the signature of the customer on the reverse side of the vouchers, the said evidence was wrongly not accepted. As the said act of the petitioner was purely due to inadvertence, he should not have been visited with the major punishment of dismissal from service, which is wholly disproportionate to the misconduct said to have been committed by the petitioner. Adding further, he submitted that against the order of dismisssal, the petitioner preferred an appeal and the appellate authority, on humanitarian grounds, modified the punishment of dismissal into one of removal from service. When the appellate authority has interfered with the order of dismissal, the reason given not to interfere with the punishment of removal is wholly bad in law and unsustainable. Therefore, the petitioner approached the Central Government Industrial Tribunal cum Labour Court, Chennai and the Labour Court also, accepting the case of the respondent management that the

petitioner has admitted during his cross examination that the reverse side of the two vouchers contain the signature of DW2 with the endorsement of having received the amount and has further admitted during his cross examination that he was conversant with the signature of DW2, declined to interfere with the punishment holding that he should not have remained careless to ascertain the signature appended on the reverse of the vouchers. Therefore, the impugned award is liable to go.

3. But this Court hardly finds any merit in the writ petition. The reason is that when the petitioner was serving in the respondent bank, which is a premier banking institution, and is expected to exhibit highest level of integrity and utmost care in the discharge of his duties, while serving as Assistant at Asaveerankudikadu branch, passed cash payment of Rs.96,000/- and Rs.93,000/- to Madan, a co-employee on the basis of two plain debit vouchers submitted by him in respect of the accounts of Selvam and Selvammal respectively on 2.1.2012. When these vouchers were not authenticated with the signature of the account holders and they were not presented by the account holders also, the petitioner ought not to have entertained the vouchers. Contrary thereto, passing the vouchers is nothing but amounting to a clear major misconduct in terms of clause 5(j) of the memorandum of settlement dated 10.4.2002. Therefore, he was issued with the charge memo calling for explanation within a stipulated time. Although the petitioner gave his explanation stating that he was not able to see the presence of the signature of the customer on the reverse of the said vouchers, rejecting the said explanation, the enquiry officer submitted his report holding that the charge against the petitioner was proved. The domestic enquiry having been conduced in a fair and proper manner, the disciplinary authority, accepting the report of the enquiry officer, passed the order of dismissal from service. As against that, when an appeal was filed, the appellate authority, on humanitarian grounds, has modified the punishment of dismissal into one of removal from service and when the said order was assailed before the third respondent, the Labour Court also, considering the grave misconduct committed by the petitioner that without verifying the signature of the customer on the reverse of the vouchers, wrongly passed the said vouchers, has rightly come to the conclusion that the petitioner, who is expected to exhibit highest level of integrity and utmost care in the discharge of his duties, has miserably failed to do so, as a result caused huge prejudice to the premier banking institution. Therefore, when the respondent bank had lost faith and trust in his continuance as Special Assistant, this Court is not inclined to entertain the writ petition. The submission of the learned counsel for the petitioner that since the unfortunate incident happened only two days before the petitioner reached the age of superannuation and

hence some lenience could have been shown by the employer, also does not appeal to this Court. For these reasons, the writ petition fails and it is, accordingly, dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ss
To

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+1cc to Mr.K.M.Ramesh, Advocate sr.no.19141

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nr 09/04/2018