

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twenty Seventh day of March Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE SATRUGHANA PUJAHARI

WMP.Nos.11143 & 11144 of 2017

in WP.No.24496 of 2016

S.AYYAPPAN,

[PETITIONER IN BOTH THE
PETITIONS]

Vs

1 THE GENERAL MANAGER
INDIAN BANK, NO.359,
DR.NANJAPPA ROAD,
COIMBATORE-641 018

[RESPONDENTS IN BOTH THE
PETITIONS]

2 THE PRESIDING OFFICER
CENTRAL GOVT. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, I FLOOR, B WING,
26, HADDOWS ROAD, SHASTRI BHAVAN,
CHENNAI-600 006

Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) Vacate the Stay Order dated 15.07.2016 in WMP.No.20925/2016 in WP No.24496/2016 (in WMP.No.11143/2017) and

(ii) Grant an Interim Injunction restraining the Respondent / Petitioner Bank Management herein from conducting the Departmental Enquiry and passing any orders with regard to the 2nd Respondent Charge Memo No. REF : CO : CBE : VG : CS : 287 : 2009-10 dated 12.10.2009, without reinstating the Petitioner / 2nd Respondent in service, (in WMP.No.11144/2017) pending disposal of the above WP.No.24496/2016 respectively.

Order : These petitions coming on for orders upon perusing the petition and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.P.K.RAJESH PRAVEEN KUMAR, Advocate for the petitioner in both the petitions and of M/S.RITA CHANDRASEKAR, for M/S.AIYAR & DOLIA, Advocate for the 1st respondent in both the petitions the court made the following order:-

As it appears that the petitioner/workman while working under the writ petitioner/bank, disciplinary proceeding was initiated dismissing from service, which was challenged before the CGIT/ Labour Court, Chennai in I.D.No.9 of 2012, wherein, an award was passed with re-instatement of the petitioner within one month without back-wages. The writ petitioner/bank challenged the same in the above writ petition, wherein, an interim order of stay has been passed. But thereafter, without reinstating the petitioner into service, he has been given subsistence allowance keeping him under suspension in a charge kept under abeyance. Hence, the miscellaneous petitions for vacation of stay as well as to quash the charge memo issued.

2. I have heard the learned counsel for the petitioner/workman in the aforesaid writ miscellaneous petitions. It is submitted by the learned counsel for the petitioner/workman that since he has already been reinstated after the award, without prejudice to the claim of the bank, to challenge the award and thereafter, the writ petition was filed and an order of status-quo has been granted, he could not have been denied the reinstatement on the said ground that too by initiating frivolous disciplinary proceeding to frustrate the aforesaid award and hence, he submits to vacate the order of stay and to direct reinstatement of the petitioner forthwith and quash the fresh charge memo subsequently, issued. The same is vehemently opposed by the learned counsel for the writ petitioner on the ground that the petitioner/workman was never reinstated, hence, the order of stay which has been granted in the writ miscellaneous petition needs no interference. So far as the other prayer is concerned, it is submitted that the same is for a fresh charge, which has no relevance to the award and as such cannot be found fault with. More so, in the present writ petition of the writ petitioner.

3. As it appears from the letter dated 22.04.2016, vide reference No.ZOC:VG:023:2016/17, the Bank has proceeded against the petitioner/workman in respect of another charge continuing the petitioner under suspension without prejudice to the rights of the Bank to appeal against the aforesaid Award passed for reinstatement. It appears that the petitioner/workman for all purposes though no specific direction has been passed appears to have been reinstated and thereafter, continued to be kept under suspension after the aforesaid award for a charge, which was said to be kept in abeyance.

4. In such view of the matter, it is fallacious to say that the petitioner/workman was not reinstated, after the award inasmuch as without reinstatement of a person removed from service, he cannot be kept under suspension. So, the petitioner/workman was reinstated but kept under suspension. In such premises, even though the award was challenged, the interim order should not have been prayed for. More so, when the award of reinstatement has already been given effect to without

prejudice to the claim of the writ petitioner to challenge such award. Hence, the interim order passed as to be vacated inasmuch as the petitioner is continuing under suspension in an another charge kept under abeyance. Accordingly, the same stands vacated. Sofaras the prayer made to quash the second charge memo is concerned, such a prayer of the petitioner/workman cannot be entertained in this writ petition in as much as the same relates to a distinct charge and has no relevance to the award passed in the Industrial dispute, which has been challenged in this writ petition. Accordingly, the said writ miscellaneous petition stands dismissed. But the petitioner is at liberty to challenge the same in an appropriate petition before the appropriate Forum. However, the petitioner/workman being continuing under suspension, arrear subsistence allowance if any be released to the petitioner within two months from the date of receipt of a copy of this order and the same also be paid to him regularly while under suspension. With the aforesaid order, both the writ miscellaneous petitions stand disposed of.

-sd/-

27/03/2018

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Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE GENERAL MANAGER
INDIAN BANK, NO.359, DR. NANJAPPA ROAD,
COIMBATORE-641 018

2 THE PRESIDING OFFICER
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, I FLOOR, B WING, 26, HADDOWS ROAD,
SHASTRI BHAVAN, CHENNAI-600 006

C.C. to M/S.P.K.RAJESH PRAVEEN KUMAR Advocate on payment of
necessary charges

C.C. to M/S.RITA CHANDRASEKAR, Advocate on payment of necessary
charges

Order
in
WMP.Nos.11143 & 11144 of 2017
in WP.No.24496 of 2016
Date :27/03/2018

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