

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.3.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.1777, 1778 of 2012

Assistant General Manager,
State Bank of India,
Region III, Zonal Office
Mc Donald Road, Trichy ... Appellant in both WPs

versus

1.Central Government Industrial Tribunal
cum Labour Court,
28 Haddows Road,
Shastri Bhavan, Chennai 6

2.A. Mohammed Shamsuddin ... Respondents in both WPs

Writ Appeals filed against the order passed by this Court
dated 5 June 2012 in W.P.Nos.33212 of 2007 and 9579 of 2008.

PRAYER IN WP.33212/2007: Writ Petition filed under Article 226
of the Constitution of India praying for the issuance of Writ of
Certiorarified Mandamus, to call for the records from the file
of the 1st respondent herein relating to the award dated
21.05.2007 in I.D.No.36 of 2006 and quash the said award.

PRAYER IN WP.9579/2008: Writ Petition filed under Article 226 of
the Constitution of India praying for the issuance of Writ of
Certiorarified Mandamus, to call for the records from the 1st
respondent Tribunal, quash the award passed by the 1st respondent
Tribunal dated 21.05.2007 in I.D.No.36 of 2006 in so far as
denying the relief of backwages and consequently direct the 2nd
respondent to pay backwages from the date of imposing the
punishment of dismissal viz. 05.07.2001 to the date of the award
viz. 31.05.2007.

For appellant : Mr.K.Sankaran

For Respondents : Mr.Balan Haridoss
for 2nd respondent

R1 : Court

COMMON JUDGMENT

(made by K.K.SASIDHARAN, J.)

These intra court appeals are directed against the order dated 5 June 2012 in W.P.Nos.33212 of 2007 and 9579 of 2008, whereby and whereunder, the learned single Judge after quashing the punishment imposed by the Disciplinary Authority, directed the appellant to pay 50% of the back wages.

2. The appellant initiated disciplinary proceedings against the second respondent, who was employed as Assistant (accounts/cash) Tirukoilur Branch. He was placed under suspension on 27 May 1999, pending initiation of disciplinary proceedings. Thereafter, proceedings were taken by appointing an Enquiry Officer. The Disciplinary Authority taking into account the report submitted by the Enquiry Officer, imposed the punishment of dismissal from service. The first respondent raised a dispute before the Central Industrial Disputes cum Labour Court, Chennai. The Tribunal set aside the punishment. However, the plea for back wages was denied. Feeling aggrieved by the award dated 21 May 2007, in I.A.No.36/2006, two Writ Petitions were filed before the writ court, one by the appellant and another by the second respondent. The learned single Judge took up both the Writ Petitions together and by way of a common order dated 5 June 2012, dismissed the Writ Petition filed by the appellant. The Writ Petition filed by the second respondent was partly allowed by directing the appellant to pay him back wages at 50%.

3. The Division Bench entertained the Writ Appeal filed by the Bank and passed an order dated 21 August 2012 to the effect that the appeal would be heard only on the question of back wages. The Division Bench made it clear that the only issue to be decided in the appeal is as to whether the workman is entitled to back wages or not. The portion of the impugned order insofar as the direction for payment of back wages was stayed.

4. It is a matter of record that pursuant to the interim order dated 21 August 2012, the second respondent was reinstated into service.

5. In view of the order dated 21 August 2012, the scope of this intra court appeal is very limited as to whether the writ court was correct in directing the appellant to pay 50% of the back wages to the second respondent.

6. The Central Industrial Tribunal considered the entire factual matrix and set aside the punishment imposed by the Disciplinary Authority. The Central Industrial Tribunal supplemented reasons for its ultimate finding that the second respondent is not entitled to back wages.

7. The Tribunal is the final Court of facts. There is no question of re-appreciating the reasons given by the Tribunal for a particular finding for the purpose of giving a different finding.

8. The learned single Judge was correct in concluding that there was no basis for awarding the punishment. However, there was no independent finding given by the learned Single Judge, justifying the direction for payment of back wages for 50%. The learned Single Judge opined that when one of the charges are held to be not proved, then the normal relief of reinstatement with consequential benefits should have been granted. The said finding was given without the support of materials. The finding of the Labour Court with regard to back wages was entirely different. These findings were not referred to by the learned Single Judge while directing the payment of back wages @ 50%. We are therefore of the view that the direction to pay 50% deserves to be set aside.

9. The order passed by the learned Single Judge is confirmed in all respects except the direction to pay back wages. However, we make it clear that the period of non-employment would be counted for all other purposes.

10. The intra court appeal is allowed in part, as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

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Sub Assistant Registrar

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To

The Registrar,
Central Government Industrial Tribunal
cum Labour Court,
28 Haddows Road,
Shastri Bhavan, Chennai 6

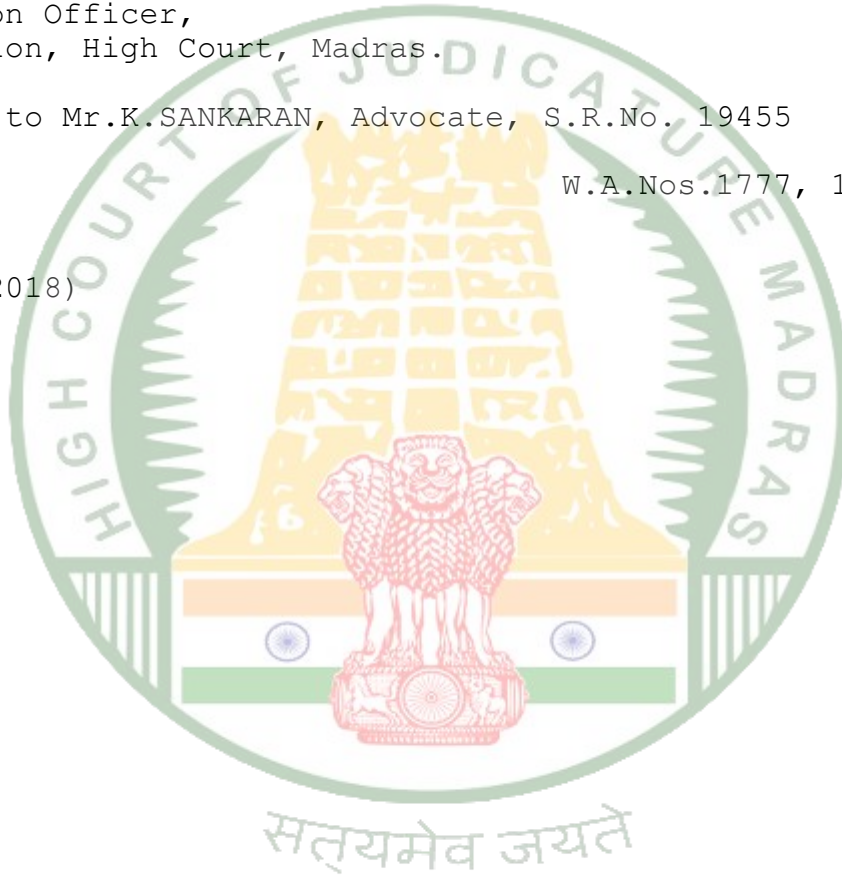
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The Section Officer,
E.R. Section, High Court, Madras.

+1cc to Mr.K.SANKARAN, Advocate, S.R.No. 19455

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SVN(CO)
TR(23/05/2018)



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