

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1096 of 2016

G.Nagasubramanian

... Appellant

Vs.

1. Indian Bank, Rep. by its Deputy Manager
Corporate Office, Compliance Department,
Royapettah, Chennai - 600 014.
2. Indian Bank, Rep. by its Assistant General Manager,
Zonal Office, Pennagaram Road,
Dharmapuri - 636 702.
3. The Central Government Industrial
Tribunal cum Labour Court,
Sastri Bhavan, Chennai - 600 006.

... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 04.05.2016 made in W.P.No.3894 of 2015.

Prayer in W.P.No.3894 of 2015:-

Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorari Mandamus to call for the records in I.D.No.8 of 2013 dated 30.12.2014, on the file of the 3rd respondent and quash the same as illegal, incompetent, unconstitutional and without justification and further direct the respondents 1 and 2 to reinstate the petitioner in service with effect from 25.09.2010 with back wages, continuity.

For Appellant : Mr.AR.L.Sundaresan for
M/s.AL Gandhimathi

For Respondents : Mr.V.Kalyanaraman for
M/s.Aiyar and Dolia for R1 & R2
R3 - Court

JUDGMENT
[was made by P.VELMURUGAN, J.]

This writ appeal has been filed against the order dated 04.05.2016 made in W.P.No.3894 of 2015.

2. It is to be stated that the writ petitioner, while working as a Single Window Operator in respondent bank was placed under suspension vide letter no.CO:VOG:682:2009-2010 dated 08.07.2009, alleging that he unauthorizedly debited a sum of Rs.10,000/- from the savings bank account of one Nagamani, who preferred a complaint with regard to that on 25.11.2008. Thereafter, the petitioner was called for to offer his explanation and on 07.08.2009, he submitted his explanation denying all the allegations. The explanation was rejected and the disciplinary authority framed charges on 28.10.2009. The enquiry was commenced on 09.02.2010 and concluded on 03.03.2010. The Enquiry Officer has sent a report on 05.05.2010 holding that the charges were proved and on 19.08.2010, second show cause notice was issued to the petitioner asking him to appear for a personal hearing on 31.08.2010, subsequently the disciplinary authority passed final orders on 25.09.2010 imposing the punishment of "dismissal without notice".

3. Aggrieved against the said order, the petitioner preferred an appeal before the Deputy General Manager/Appellate Authority on 25.10.2010, which was dismissed by order dated 19.03.2011. Assailing the order dated 19.03.2011, the petitioner approached the third respondent/Industrial Tribunal cum Labour Court and his case was taken on file in I.D.No.8 of 2013. The Labour Court, after considering the oral and documentary evidence placed before it, rejected the claim of the petitioner by award dated 28.10.2014 and held that the punishment of dismissal from service imposed by the disciplinary authority was justified and it was not disproportionate to the proved charges.

4. Challenging the order of the Labour Court, the petitioner preferred a writ petition before this Court in W.P.No.3894 of 2015. The writ Court after hearing the submissions of both the learned counsel, dismissed the above said writ petition by order dated 04.05.2016.

5. Aggrieved against the order dated 04.05.2016 made in W.P.No.3894 of 2015, the petitioner has preferred the present writ appeal.

6. We have heard the learned Senior Counsel appearing for the appellant and the learned counsel appearing for the first and second respondents/Bank and perused the materials placed before us.

7. It is the admitted fact that the complainant Nagamani deposited a sum of Rs.20,000/- and Rs.10,000/- was debited unauthorizedly on the same day itself. A perusal of the records would go to show that at the time of enquiry, the appellant himself admitted that he debited a sum of Rs.10,000/- from the savings bank account of the complainant and agreed to remit the same and he only filled the challan for depositing the same. Past conduct of the appellant would go to show that the appellant had committed similar misconduct and Management had warned him on an earlier occasion. Further considering the nature of the work entrusted to the appellant, we are not inclined to interfere with the order passed by the writ Court.

8. As rightly pointed out by the learned Single Judge that in the absence of any perversity or any findings which is not legally sustainable, the writ court cannot enter into the realm of factual disputes and findings given by the Labour Court. There is no question of law involved in this matter. It is settled proposition that in writ appeal, the appellate Court cannot re-appreciate the evidence and interfere with the findings purely based on the oral and documentary evidence, unless there is any illegality or perversity in adopting the procedure established by law or any violation of principles of natural justice.

9. In view of the above discussion, we are of the considered opinion that the order passed by the learned Single Judge in W.P.No.3894 of 2015 dated 04.05.2016 does not warrants interference.

10. In the result, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar

cgi
To

1. The Central Government Industrial Tribunal cum Labour Court, Sastri Bhavan, Chennai - 600 006.

+1cc to M/s.Aiyar and Dolia , Advocate, S.R.No.17481
+1cc to M/s.AL Gandhimathi, Advocate, S.R.No.17845

W.A.No.1096 of 2016

NRL(CO)
CS/21/06/18