

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :03.08.2018

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.12609 of 2003

R. Subash Chandra Bose

... Petitioner

Vs

1. Indian Bank,
rep by its Chairman and Managing Director,
31, Rajaji Salai,
Post Box No.1384,
Chennai - 600 001
 2. The General Manager (P.S.),
Appellate Authority,
Indian Bank,
Central Office,
31, Rajaji Salai,
Post Box No.1384,
Chennai - 600 001
 3. The Zonal Manager,
Disciplinary Authority,
Indian Bank,
Zonal Office,
359, Dr.Nanjappa Road,
Post Box No.3905,
Coimbatore - 641 010
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the Respondents relating to the order of the Second Respondent bearing No.PRNL:DPC:GENL:765:99 dated 17.03.1999 confirming the punishment of discharge from service imposed on the Petitioner by the Third Respondent vide order bearing No.ZO:CBE:VC:98:858 dated 11.12.1998 and quash the said order dated 17.03.1999 and direct the Respondents to reinstate the Petitioner in service with full backwages, continuity of service and all consequent and attendance benefits and further direct the Respondents to treat the period of the Petitioner's suspension as one on duty.

For Petitioner : Mr.K. Sudalaikannu for
Ms.G.Rama Priya

For Respondents: Ms.Rita Chandrasekar for
M/s Aiyar and Dolia

ORDER

The Petitioner who was employed as Clerk/Typist by the Respondent, viz., Indian Bank, has challenged the order dated 17.03.1999 passed by the Second Respondent/Appellate Authority confirming the order dated 11.12.1998 passed by the Third Respondent/Disciplinary Authority imposing the punishment of discharge from service and stoppage of one increment with cumulative effect as per para 19.6.(b) of Bipartite Settlement dated 19.10.1966.

2. Heard Mr.K. Sudalaikannu, learned Counsel for the Petitioner and Ms.Rita Chandrasekar learned Counsel for the Respondents and perused the pleadings of the parties and other materials placed on record.

3. Though the Petitioner, who is a 'workman' within the meaning of the Industrial Disputes Act, 1947, has an alternative remedy of raising an industrial dispute before the Labour Court under its provisions to challenge the punishment inflicted upon him, no justification has been shown either in the affidavit filed in support of the Writ Petition or during the course of submissions made by the learned Counsel for the Petitioner for having bye-passed the same and directly approached this Court qua this Writ Petition.

4. It is also well known that in exercise of discretionary powers conferred on this Court under Article 226 of the Constitution, it is only the decision making process that could be examined and the Court cannot interfere with the decision itself merely because another view is possible, unlike the Labour Court under the Industrial Disputes Act, 1947, which has the power to take additional evidence and also substitute with lesser punishment, if it is satisfied that what has been inflicted is not commensurate with the gravity of misconduct proved.

5. Having regard to the factual disputes raised by the Petitioner in the Writ Petition vis-a-vis the aforesaid legal position, it would not be appropriate for this Court to continue to entertain this Writ Petition. This view is fortified by the binding decision of the Hon'ble Supreme Court of India in State of Uttar Pradesh -vs- Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti [(2008) 12 SCC 675], in which it has also been

held that it cannot be laid down as a proposition of law that once a Writ Petition is admitted, it cannot be dismissed on the ground of alternative remedy.

6. In these circumstances, without expressing any opinion on the correctness or otherwise of the rival contentions of the parties, the Writ Petition is dismissed, leaving it open to the Petitioner to approach the proper forum in accordance with law to raise all contentions available for necessary relief and also to the Respondent to defend and support the action taken. No costs.

vjt

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman and Managing Director,
Indian Bank,
31, Rajaji Salai,
Post Box No.1384,
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2. The General Manager (P.S.),
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Disciplinary Authority,
Indian Bank,
Zonal Office,
359, Dr.Nanjappa Road,
Post Box No.3905,
Coimbatore - 641 010

+1cc to Mr.K.Sudalaikannu, Advocate SR.NO.53407

+1cc to Mr.Aiyar & Dolia, Advocate SR.NO.53512

BR(CO)

srg:5.10.2018

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