

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10489 OF 2005

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the order passed by the 1st respondent dated 19.3.2005 and to quash the said order by holding it as arbitrary and illegal, and consequently, to direct the respondents to reinstate the petitioner into service with all consequential benefits.

2. Heard Sri S.R. Sanku, learned Counsel for the petitioner and Sri K. Laxminarasimha, learned Standing Counsel for the respondent-bank.

3. The case of the petitioner is that she was appointed as a clerk-cum-typist in the year 1982 in the respondent-bank and she was promoted as Junior Manager in the year 2003. While she was working as Assistant Manager in A.K. Nagar Branch, Andhra Bank, Nellore, the respondents issued a charge memo on 27.7.2004 to her under Regulation No.3(1) and 24 of the Andhra Bank Officer Employees' Conduct Regulations, alleging that she misappropriated bank funds to a tune of Rs.45,000/- through fictitious L.B.P.S.(Local Branch Purchase of Cheques) transactions from 22.4.2004 to 5.5.2004 and 10.5.2004 to 19.5.2004. The petitioner submitted explanation denying the charge levelled against her.

Being not satisfied with the same, regular departmental enquiry was conducted. The enquiry officer filed a report holding that the charge was proved. Based upon the enquiry report, the disciplinary authority imposed major penalty of dismissal from service, on 27.1.2005. Challenging the same, the present writ petition is filed.

4. It has been contended by the petitioner that she had not misappropriated the amounts as alleged in the charge memo. The petitioner contended in ground No.(q) of this writ petition that there is in fact a known practice of transferring the bank funds to the parties accounts temporarily to keep the account/transactions alive till the amounts due are realized especially when credit is given to the parties on the spot by way of B.P. or by debiting from the sundry debtors accounts till cheques or instruments are realized or till the money is realized which was paid to the account holder, from the consequences arising out of the B.P. till the realization of the proceedings, which happened in her case, and the said practice was followed by her.

5. When a specific question was raised by this Court as to whether the following of the above practice, which is said to be prevailing in the bank, was in accordance with the regulations or any instructions from the superior authorities, the learned Counsel for the petitioner could not answer affirmatively and he did not

trace out any circular based on which, the petitioner was supposed to temporarily transfer the funds from one account to another.

6. The learned Standing Counsel for the respondents contended that the disciplinary authority has rightly imposed the punishment of dismissal from service for the proven misconduct of the petitioner after conducting an enquiry. Insofar as the proportionality of the punishment is concerned, the learned Standing Counsel contends that since the charges proved against the petitioner are serious in nature, dismissal from service is not shockingly disproportionate.

7. This Court has considered the submissions made by the parties and perused the material available on record. From the material on record, it is obvious that for the proven misconduct of misappropriation of funds of the respondent-bank, the petitioner was dismissed from service. The petitioner could not place any relevant material to substantiate ground No.(q) raised in the writ petition. Further, the petitioner could not point out any denial of principles of natural justice during the course of enquiry. Moreover, the punishment of dismissal for the proven misconduct of misappropriation of funds is not disproportionate. There are no merits in the writ petition.

8. Accordingly, the Writ Petition is dismissed. No costs.
Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 10th September, 2018.
Nn.



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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10/09/2018

Nn.