

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.21449 OF 2002

ORDER:

This writ petition is filed seeking a writ of *Mandamus* to declare the action of the respondents in dismissing the petitioner from service by order dated 8.2.2000, passed by the 1st respondent, as confirmed by the 2nd respondent, who is the appellate authority in proceedings dated 6.7.2000, as illegal, arbitrary and violative of the principles of natural justice. A consequential direction was also sought to reinstate the petitioner into service with all consequential and attendant benefits.

It has been contended by the petitioner that initially he was appointed as a 'clerk' and he was kept as In-charge Branch Manager on 1.12.1997. While the petitioner was working as the In-charge Branch Manager, the disciplinary authority, has issued memorandum of charges on 8.6.1998, alleging serious acts of misconduct including temporary misappropriation of funds of the bank. The petitioner has submitted an explanation denying the said charges and thereafter, the disciplinary authority, not satisfied with the explanation submitted by the petitioner, has appointed an enquiry officer and after conducting a detailed enquiry, the enquiry officer, has submitted a report holding that the charge is proved. Basing on the same, the disciplinary authority, has imposed the major punishment of dismissal of the petitioner vide order dated 8.2.2000. Challenging the same, the petitioner has preferred an appeal to the appellate authority and the appellate authority has rejected the appeal preferred by the

petitioner on 6.7.2000. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the alleged misappropriated amount of Rs.11,000/- was repaid by the petitioner along with interest and therefore, the question of holding that the petitioner is guilty of the said offence is totally arbitrary and illegal exercise undertaken by the disciplinary authority. Apart from the said legal statement, the learned counsel has contended that the disciplinary authority ought to have imposed any other punishment as the punishment of dismissal from service is disproportionate to the charges levelled against the petitioner.

Learned Standing Counsel appearing for the respondents bank had contended that every opportunity was given to the petitioner in the enquiry and the disciplinary authority has imposed major punishment of dismissal only for the proven misconduct in the enquiry and no illegality has been committed by the respondents and the writ petition is liable to be dismissed.

Having considered the rival submissions made by the parties, this Court is of the view that the disciplinary authority has imposed a major punishment of dismissal of the petitioner for the proven misconduct in the enquiry on the ground of misappropriation of bank funds and even as per the arguments advanced by the petitioner, it has been admitted that the misappropriated amounts were repaid back to the bank. The admission of the petitioner that he has repaid the misappropriated amounts back to the bank, itself shows that the charge leveled against the petitioner, has been established and the punishment of

dismissal for admission of temporary misappropriation of the funds of the bank is not shockingly disproportionate to the proven misconduct and more over the petitioner could not point out any legal infirmity in the conduct of the enquiry and disciplinary proceedings against the petitioner. In view of the same, there are no merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs. As a sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

Date:25.09.2018.
Gk.

ABHINAND KUMAR SHAVILI,J



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Date:25.09.2018

Gk.