

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.09.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18388 of 2004

S.Arokianathan

..Petitioner

vs

1.Indian Bank,
rep.by its General Manager,
Chennai.

2.The Central Government Industrial
Tribunal cum Labour Court,
Rep.by its Secretary,
Chennai.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second Respondent in I.D.No.252/2001 dated 7.01.2003 on the file of second Respondent and to quash the same and consequently, directing the first Respondent to reinstate the Petitioner with backwages and regular employment in the Respondent Bank.

For Petitioner : Mr.A.Tamilvanan

For Respondents : M/s.Ritachandrasekaran

For M/s.Aiyar & Dolia for R1

R2 - Tribunal

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O R D E R

The Award dated 07.01.2003 passed in I.D.No.252 of 2001 by the 2nd respondent is under challenge in the present writ petition.

2. The writ petitioner states that he was appointed as Temporary sub-staff in the Villianoor Panchayat of the Respondent Bank by the Regional Manager through an order of appointment dated 08.08.1996. On 09.02.1988 onwards, the Branch Manager of the concerned Villianoor Panchayat refused to give appointment to the writ petitioner and further refused to provide any reason for not providing employment to the writ petitioner as temporary staff. The petitioner waited for sometime and thereafter submitted a representation on 23.02.1998, seeking employment. Earlier the writ petitioner filed writ petition before this Court in W.P.No.5093 of 1992 seeking for the intervention of this Court and the writ petition was disposed of with a direction to consider the case of the writ petitioner afresh. Thereafter, the matter was referred to the 2nd respondent Central Government Industrial Tribunal cum Labour Court for adjudication of the dispute raised by the writ petitioner. The Labour Court elaborately considered the claim of the writ petitioner with reference to the documents and the evidences produced by the respective parties.

3. The learned counsel appearing on behalf of the respondent Indian Bank made a submission that the writ petitioner had not even served for 240 days and therefore, he is not entitled for any relief. This apart, he was not appointed in accordance with the procedures as well as in consonance with the recruitment rules in force. However, the same is disputed by the learned counsel for the writ petitioner by stating that the name of the writ petitioner was included in the empanelment of the temporary employees and he was appointed as such. Therefore, the engagement of the writ petitioner as temporary staff was on need basis and at no point of time, he was appointed as a regular employee of the Indian Bank.

4. The Labour Court considered all these aspects and held that as per Exhibit M-2, in respect of the allegation of misbehavior, the writ petitioner himself has apologized and the same was available in Exhibits M-3 and M-4. The joint representation of the staff members of the bank branch to Branch Manager and the investigation report given under Exhibit M-4. As per Exhibit M-3, the writ petitioner was misbehaved and the joint representation also reveals the same. On account of the fact that the writ petitioner misbehaved with the officials, the 1st respondent Bank had taken disciplinary action and passed orders, dropping him from the panel and the same was passed as an order, which was marked as Exhibit M-5 by the Zonal Manager. Exhibit M-5 order of the Zonal Manager was communicated to the writ petitioner in Exhibit M-7 and a postal acknowledgment was also received.

5. In view of the fact that the writ petitioner was an empanelled workman for utilizing his services for time employment when a permanent sub-staff goes on leave, no domestic enquiry was conducted, which is required to the employee happens to be a permanent employee of the Bank.

6. The legal principles to be considered in this regard is that when no enquiry was conducted by the employer, the evidences can be considered by the Labour Court. In the present case, the nature of the misconduct against the writ petitioner and the documents produced by the Management were considered by the Labour Court and accordingly, the Labour Court arrived a conclusion that the misbehavior was established as the same was admitted in the joint representation and the writ petitioner himself has apologized for his misbehavior, which is found in Exhibits M-3 and M-4.

7. This being the categorical finding of the Labour Tribunal, this Court is of the opinion that the writ petitioner being an empanelled staff, may not have any

right for any other relief and the Labour Court has not committed any illegality or perversity in rejecting the Industrial Dispute raised by the writ petitioner for reinstatement. The Labour Court found that the action of the Management of Indian Bank, Chennai in dropping the name of Sri.S.Arokianathan from the panel of temporary sub-staff and denying him employment for the given reasons and by adopting the procedure mentioned in the circular is justified and legal.

8. This Court by exercising the powers of review under Article 226 of the Constitution of India is not inclined to reverse the findings of the Labour Court as the same is based on the evidences as well as the documents placed before the Labour Court. Consequently, the Award dated 07.01.2003 passed in I.D.No.252 of 2001 is confirmed and the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The General Manager
Indian Bank,
Chennai.

2.The Secretary,
The Central Government Industrial
Tribunal cum Labour Court,
Chennai.

+1cc to Mr.A.Tamilvanan , Advocate SR.No. 79738

+1cc to Mr.M/s.Aiyar & Dolia , Advocate SR.No.79641

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A.SK(18/10/2019)

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