

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.18567 of 2016
and WMP.No.16273 of 2016

The Management of Central Bank of India,
Represented by Mr.Mayank Dinesh Shah,
its Senior Regional Manager,
Central Bank of India,
Regional Office,
48/49, Montieth Road,
Chennai - 600 009.

...Petitioner

vs.

1. The Presiding Officer,
Central Government Industrial Tribunal
cum-Labour Court,
Chennai.
2. The General Secretary,
Central Bank of India Employees Union,
11, Second Line Beach,
Chennai - 600 001.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in I.D.No.62 of 2015 and quash its award dated 08.01.2016 in respect of grant of back wages to workman P.Mohan.

For Petitioner : Mr.S.Ravindran, Senior counsel
for Mr.S.Bazer Ahamed

For Respondents : R1 - Labour Court
R2 - No appearance

O R D E R

The award dated 08.01.2016 passed in I.D.No.62 of 2015 is under challenge in the present writ petition.

2. The writ petitioner Management is the Central Bank of India which a Nationalised Bank. The workman concerned Mr.P.Mohan is represented by the second respondent Central Bank of India Employees Union. The second respondent raised an Industrial Dispute with reference to the birth certificate, which was found as bogus by the writ petitioner Management. The workman concerned submitted his birth certificate at the time of appointment to record the date of birth of the workman in the service register. The date of birth was entered into the service register by the Management and the same was sent for verification. The Corporation sent a reply that the birth certificate submitted by the workman concerned was a bogus one. Accordingly, the disciplinary proceedings were initiated against the workman concerned and an enquiry was conducted. During the enquiry, it was deposed that the workman concerned was not aware of the genuinity or otherwise of the birth certificate obtained and his father obtained the birth certificate and further more his father was an illiterate man and with the assistance of some neighbors he got the birth certificate.

3. Pleading innocence the workman concerned reiterated that he was no way responsible or liable for the birth certificate produced as the birth certificate was obtained by his father long back and date of birth entered in the birth certificate was all along followed by him even in school records and other records etc., In other words, based on the date of birth his birth date was entered in all the records and the same is being followed by the workman concerned. While so, he had no intention to submit any bogus certificate for the purpose of entering his date of birth in the service records and he produced the certificate, which was obtained by his father long back and under these circumstances, he requested for exoneration from the allegations.

4. However, the Management based on the enquiry holding that the charges leveled against him are proved, issued an order of dismissal from service. The Labour Court adjudicated the issues raised and arrived a conclusion that the workman concerned is entitled for reinstatement with backwages.

5. The Labour Court mainly relied upon the fact that the employee concerned had no intention to produce any such bogus certificate as the birth certificate was issued by the authorities of the corporation long back and the same was obtained by the father of the workman and therefore he cannot be held liable after this length of time. This apart, the said date

of birth, based on the certificate, was being followed by the workman concerned for several years. Under those circumstances, the Labour Court held that there is no intention or otherwise on the part of the employee concerned and accordingly direct the Management to reinstate the workman with 100% backwages.

6. The learned Senior Counsel appearing on behalf of the writ petitioner Management reiterated that the procedures are followed scrupulously by the Management, the order of dismissal was issued based on the proved charges. As far as Management is concerned, the certificate produced were sent for verification and after verification it was found that the birth certificate was bogus. Thus, there is no infirmity as such in respect of the actions initiated by the Management. It is further brought to the notice of this Court that after passing of the award by the Labour court, the workman concerned was reinstated without any condition and he is working with the Management and the Management filed the writ petition only in respect of the back wages granted by the Labour Court.

7. The portion of the award regarding reinstatement is implemented long back. Thus, this court has to consider whether the employee concerned is entitled for back wages or not. The second respondent union has not represented by any person before this Court. Under these circumstances, this Court has to proceed on merits.

8. Undoubtedly, the certificate of birth was produced by the employee concerned to the writ petitioner Management. The Management sent the certificate for verification. The corporation officials sent a reply that the certificate is bogus one. The Management instituted disciplinary proceedings. The domestic enquiry was conducted. Based on the findings of the enquiry officer, the employee concerned was dismissed from service. The Labour Court found that the employee had no knowledge about the genuinity or otherwise of the birth certificate produced by him. The birth certificate was obtained by his father, who is an illiterate person, the birth certificate was obtained long back during his childhood and the said date of birth was being followed for several years in all the records. Under those circumstances, the Labour Court consider the defence of the employee concerned and granted the benefit of reinstatement as well as the 100% back wages.

9. This Court is of the considered opinion that there is no error on the side of the Management regarding institution of disciplinary proceedings. Once the certificate produced by the

employee is found to be bogus, then the employer is bound to take disciplinary proceedings and they have rightly done so. Equally the employee concerned could able to establish that he had not produced any such bogus certificate intentionally and he established before the Labour Court that he was not aware of the genuinity or otherwise of the birth certificate produced, as the certificate was obtained by his father several years back and during his childhood.

10. This being the facts established before the Labour Court, this Court is of an opinion that neither the Management nor the employee has committed any error and they have instituted the actions properly and the employee also established that he had no intention to produce such a bogus certificate. Thus, this Court is of an opinion that "No work No pay" principle can be applied, as there is no fault on the side of the Management and equally the employee concerned also established that he had no intention to submit any such bogus one.

10. The fact remains that the benefit of reinstatement was granted soon after passing of the award. Thus the employee concerned is not entitled for back wages.

11. Accordingly, the award of the Labour Court dated 08.01.2016 passed in I.D.No.62 of 2015 is quashed only with reference to the back wages awarded and in respect of the reinstatement with other attendant benefits, the award stands confirmed.

Accordingly the writ petition stands allowed partly. No costs. Connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Presiding Officer,
Central Government Industrial Tribunal
cum-Labour Court,
Chennai.

2. The General Secretary,
Central Bank of India Employees Union,
11, Second Line Beach,
Chennai - 600 001.

+1 CC to Mr.S.Bazer Ahmed, Advocate sr 97468.

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VGII(CO)
SP(02/01/2020)



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