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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.30641 of 2014

M.A.Vijayalakshmi

... Petitioner

-vs-

1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
I Floor, 'B' Wing, 26, Haddows Road,
Shastri Bhavan, Chennai-600 006.

2.Branch Manager,
Union Bank of India,
Vilachery Branch, Madurai-6.

3.The Deputy General Manager,
Union Bank of India,
Regional Office,
No.72, P.T.Rajan Road,
Bibikulam, Madurai-2.

... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the concerned records from the 1st respondent, quash the award passed by the 1st respondent Labour Court dated 06.12.2013 in I.D.No.41 of 2011 and consequently direct the 2nd respondent Bank to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.

For Petitioner : Mr.Balan Haridas

For Respondents : R1 - Tribunal

: RR2 & 3 - Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.

ORDER

The award dated 06.12.2013, passed by the 1st respondent in I.D.No.41 of 2011 is under challenge in the present writ petition.



2.The writ petitioner states that she was employed in the 2nd respondent, Union Bank of India and based on certain false allegations, disciplinary proceedings were initiated. The petitioner states that she was erroneously termed as a "temporary employee" and was paid very meagre wages despite the fact that she was working in the 2nd respondent Bank from 10:00 a.m. to 05:00 p.m. everyday.

3.The learned counsel appearing on behalf of the writ petitioner made a submission that the order of termination was passed without following the procedures contemplated and in violation of the principles of natural justice. The mandatory provision under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") has not been followed. Therefore, the award is perverse and liable to be scrapped.

4.The learned counsel for the writ petitioner mainly contended that in the absence of any material proof and in the absence of any legal evidence, the relief sought for in the claim petition by the employee cannot be denied by the Labour Court. The petitioner, being a casual employee and admittedly having no knowledge in banking transactions and having no training in operation of the computer, cannot be made responsible for various transactions carried out by the officials of the bank and therefore, she is not responsible for any such misappropriation or otherwise as alleged by the 2nd respondent Bank. The petitioner being a sub-staff, had no knowledge to do the banking transactions in the computer module and no training was given to her. At the outset, it is contended that the writ petitioner was not aware of the transactions done in the Bank and therefore, she cannot be held liable for the misappropriation of the funds of the Bank. Raising all these grounds, the learned counsel for the petitioner reiterated that the award of the Labour Court is perverse and liable to be scrapped.

5.The learned counsel appearing on behalf of the 2nd respondent Bank disputed the contentions raising on behalf of the writ petitioner by stating that the allegations against the writ petitioner were serious in nature and regarding the misappropriation of the funds of the Bank, it is contended that documents and evidences were produced before the Labour Court and the Labour Court considered all the issues meticulously and made a finding in paragraph 18 of the award dated 06.12.2013. For better appreciation, the said paragraph is extracted hereunder:-

"18.Even assuming that the allegation raised by the Respondent against the petitioner is not established, I do not think, in the circumstances brought out in evidence, the Respondents could be



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said to be unjustified in taking the stand that she is not entitled to be reinstated in service. There is sufficient evidence to show that after the petitioner has started to work in the Bank, accounts were opened in the name of all her close relatives. Several transactions of suspicious nature has taken place with reference to these accounts. Of course, it has been argued by the counsel for the petitioner that the petitioner has nothing to do with the entries in the statement of accounts, she having been a casual employee. It was brought out during the cross-examination of MW1 that the Password assigned to a particular employee is not intended to be revealed. It was also brought out that the petitioner had no training in banking transactions. What MW1 has stated is that she was guided to take pass book printout and to do some fundamental transactions. According to him, she was allowed to operate the systems after they were opened. It is a fact that on the basis of the Sale Agreement though disputed by the father of the petitioner, Rs.5.00 lakhs has been deposited by Moideen in his account and this was transferred to Sundry Account to make good the loss. There is also the admission by the petitioner that the Title Deed of her father is with Moideen. All these put the petitioner under strong suspicion regarding the allegations made by the Bank against her. An employee who is carrying out banking transactions is expected to be above suspicion of the utmost integrity and sincerity. The petitioner, even as admittedly was only a casual employee, working for wages @ Rs.80/- a day. Certainly in the wake of the allegations the Bank has all justification in resisting her claim for reinstatement. I am not inclined to accept the plea for reinstatement by the petitioner."

6. In paragraph 19 of the award, the Labour Court made a finding that the malpractices allegedly done by the petitioner were revealed only after she stopped working in the Bank. It is clear from the admission of the 2nd respondent Bank itself that the petitioner has worked in the Bank from July, 2008 to the middle of August, 2009. Therefore, she must have completed 240 days. Ex.M5, the letter of the Branch Manager to the Head Officer states that she was stopped from work during 1st week of August, 2009. Accordingly, the Labour Court arrived a conclusion that there is no case for the 2nd respondent Bank that any compensation was paid to her under Section 25F of the Act. However, the petitioner would have been entitled to an amount equal to her 15 days average pay for one year of completed



services and the Labour Court directed the 2nd respondent Bank to pay the said amount by way of compensation.

7.Perusal the entire award reveals that the evidences, documents and the materials submitted by the respective parties were considered and the findings of the Labour Court are candid and convincing and accordingly, there is no infirmity as such.

8.Accordingly, the award of the Labour Court dated 06.12.2013, passed in I.D.No.41 of 2011 is confirmed and consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

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Central Government Industrial Tribunal
cum Labour Court,
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3.The Deputy General Manager,
Union Bank of India,
Regional Office,
No.72, P.T.Rajan Road,
Bibikulam, Madurai-2.

+1cc to Mr.T.S.Gopalan & Co., Advocate Sr.97712

W.P.No.30641 of 2014

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srg 26/12/2019