

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.23432 of 2014

N.M.Sundaram

... Petitioner

-vs-

1. The Special Officer,
Aravenu Primary Agricultural
Co-operative Bank Ltd.,
Aravenu, Kotagiri Taluk,
The Nilgiris.

2. The Presiding Officer,
Labour Court, Coimbatore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus calling for the records with respect to the entire proceedings in I.D.No.245/2007 on the file of the second respondent and quash the preliminary award dated 14.05.2010 and "in so far as stoppage of one increment with cumulative effect as mentioned in Para No.15 (1)" and "in so far as 20% back wages as mentioned in Para No.15(2)" in the final award dated 11.02.2013 and direct the first respondent to provide full back wages with all other attendant benefits and consequential relief from the date of dismissal i.e. 05.05.2005 to till the date of reinstatement i.e., 01.07.2013".

(Prayer amended as per order dated 28.04.2016 passed in W.M.P.11851 of 2016 in W.P.No.23432 of 2014)

For Petitioner : Mr. V.Sivakumar
For Respondents : M/s.S.Ravindhan,
Senior Counsel
for Mr.S.Bazeer Ahamed for R1

O R D E R

The petitioner has filed this writ petition, seeking to quash the Preliminary Award dated 14.05.2010 in I.D.No.245 of 2007 on the file of the 2nd respondent and also stoppage of one increment with cumulative effect as mentioned in Para No.15(1) and the grant of 20% back wages as mentioned in Para No.15(2)" in the Final Award dated 11.02.2013. The petitioner also sought a direction to the 1st respondent to provide full back wages with all other attendant benefits and consequential relief from the date of dismissal i.e., 05.05.2005 to till the date of reinstatement i.e., 01.07.2013.

2. For the sake of convenience, the Parties are referred to as per their nomenclature in the Final Award dated 11.02.2013 of the Labour Court.

3. The Labour Court, after analysing the proceedings conducted by the Management, came to the conclusion on 14.05.2010 that the Domestic Enquiry is fair and proper. Even though the Preliminary Award has been challenged, the petitioner is unable to point out the procedural irregularities in the domestic enquiry conducted and the findings rendered thereon. Hence I am of the view that there is no reason to interfere with the said finding that the domestic enquiry is fair and proper.

4. Secondly, with regard to the charges, the Labour Court, holding that the punishment of dismissal awarded to the Petitioner is disproportionate to the proved charges, has interfered with the findings of the Enquiry Officer, by invoking Section 11(A) of the Industrial Dispute Act 1947. It is pertinent to mention here that the Labour Court had exercised the provisions of Section 11 (A) of the Act and modified the punishment of dismissal dated 05.05.2005 into the one of punishment of stoppage of one increment with cumulative effect, with further direction to reinstate him into service with 20% of back wages and with continuity of service. Consequent to the Award of the Labour Court, the petitioner has also been reinstated. Now, the petitioner has confined his relief in the present Writ Petition, requesting this Court to further modify the punishment of stoppage of one increment with cumulative as that of without cumulative. Such request cannot be acceded to at this distant point of time, as the charges have been duly established against him.

5. It is appropriate to indicate here that the scope of interference by this Court with the punishment imposed by the Labour Court in regard to the charges, which are severe and grave in nature, is very minimal. A Three Judges' Bench of the Hon'ble Supreme Court in the case of B.C.Chaturvedi vs. Union of India and others, reported in 1996 AIR 484, had clearly held as follows:

"Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

6. As could be seen from the Award, more particularly Paragraph No.11 of the Award, three charges have been framed against the petitioner, out of which, though first two charges, which were actually not serious in nature, were held to be proved, the Labour Court, finding that the punishment is shockingly disproportionate to the established charges, had interfered with the same and in absence of such disproportionate punishment, the Labour Court may not simply interfere with the punishment, by invoking Section 11-A of the Industrial Disputes Act. Since the Labour Court has rightly exercised the power under Section 11-A of the Industrial Disputes Act, 1947 and modified the punishment of dismissal, the Award does not warrant any further interference by this Court, as admittedly, the petitioner had rejoined duty and thereafter, attained superannuation also. In view of the above, this Court is not inclined to interfere with the Final Award of the Labour Court, as there is no perversity in the findings.

7. With the above observations, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Special Officer,
Aravenu Primary Agricultural
Co-operative Bank Ltd.,
Aravenu, Kotagiri Taluk,
The Nilgiris.

2. The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr.S.Bazeer , Advocate SR.No. 79068

+1cc to Mr.V.Siva kumar , Advocate SR.No. 79093

W.P.No.23432 of 2014

A.SK(08/11/2019)