

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL No.1651 of 2018

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

This Appeal is against the order of the learned single Judge confirming the order of the Labour Court on an Industrial Dispute. The writ petitioner is the appellant. He was removed from the service of the respondent, a Public Sector Bank.

2. The writ petitioner entered service of the respondent Bank as a Cashier in 1985. While discharging the responsibilities as Joint Custodian Cashier during June 2002, he was issued with a notice on the allegations relating to irregularities in office. Disciplinary proceedings followed and concluded holding that he was liable for shortage of Rs.528.97 ps., though misappropriation cannot be attributed to him. The disciplinary authority handed down the punishment of dismissal from service. That was modified by the appellate authority as compulsory retirement. The Labour Court on a reference under the Industrial Disputes Act, 1947 (for short, the Act), found that the finding of guilt was appropriate and held that compulsory retirement as imposed on the delinquent was grossly disproportionate to the allegations. Therefore, obviously in exercise of power under Section 11 of the Act, the Labour Court ordered reinstatement of the applicant on or before 01.06.2005 on the minimum pay scale. It was also directed that the period from 08.07.2003 (date of compulsory retirement) till the date of actual reinstatement (09.06.2005) shall not be counted for terminal

benefits. This was challenged by the punished employee before the learned single Judge. The Writ Petition was dismissed affirming the decision of the Tribunal, stating reasons for such decision. Hence, this intra court Writ Appeal.

3. As noted in our order, dated 25.01.2019, the only plea that deserves consideration as of now is as to whether the Labour Court was justified in ordering that the terminal benefits shall be calculated by excluding the period from compulsory retirement to reinstatement.

4. We have heard the learned counsel for the appellant – writ petitioner, and the learned counsel for respondents 1 to 3, which is a public sector bank and its officials, on different aspects of the matter, including the aforesaid issue.

5. Considering the aforesaid issue, we notice that the learned single Judge has held as follows:

“This Court, having considered the rival submissions of both the parties, is of the opinion that once the Labour Court has exercised its power under Section 11-A of the Act and is conscious of the fact that initially the dismissal was modified to that of compulsory retirement by the appellate authority, and later, the Labour Court, on appreciating the entire case, further granted relief to the petitioner by setting aside the orders of compulsory retirement and ordered reinstatement, and on its own discretion, has not granted back-wages and continuity of service. This Court is of the view that the petitioner’s case has been considered leniently by the appellate authority as well as the Labour Court and no further leniency can be shown in awarding continuity of service and back-wages. When no illegality or perversity has been pointed out in the Award passed by the Labour Court, this Court cannot interfere with the orders passed by the Labour Court, more so, when it has legitimately exercised the statutory power under Section 11-A of the Act.”

6. The decision of the Labour Court clearly demonstrates exercise of authority under Section 11-A of the Act. Learned

single Judge has also examined that aspect of the matter and has affirmed the decision of the Tribunal in that regard. It is also pertinent to note that learned single Judge and the Labour Court would obviously have been guided also by the fact that the allegations relate to the Officer In charge of cash in the banking sector. We think that unless gross illegality, irregularity, impropriety and grave error in appreciation of material is demonstrated, we would not be justified in interfering with the discretion of exercise by the learned single Judge affirming the discretion exercised by the Labour Court under Section 11-A of the Act. We do not see that any such ground exists in the case in hand.

7. For the aforesaid reasons, we do not find our way to interfere with the impugned decision of the learned single Judge or that of the Labour Court.

The Writ Appeal fails, and the same is accordingly dismissed.

The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

18.02.2019
vs