

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.463 of 2020

M.Swaminathan ... Appellant/Petitioner

vs.

1.The Deputy General Manager,
State Bank of India,
Chennai Zone-1,
NW-I, Zonal Office,
Rajaji Salai, Chennai - 600 001.

2.The Presiding Officer,
Central Government Industrial Tribunal-cum-Labour Court,
Shastri Bhavan,
Haddows Road,
Chennai - 600 006. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.11.2019 passed by the learned Single Judge in W.P.No.23633 of 2017.

Prayer in WP.No.23638/2017: Writ Petition filed under Article 226 of the constitution of India, praying to issue a writ of certiorari calling for the records of from the files of the 2nd Respondent in I.D.No.32/2015 and quash the impugned award made therein dt.4.4.2017 insofar as the 1st Respondent has denied and negatived the claim of the petitioner for payment of full salary for the period of suspension and for settlement of terminate benefits including pensioner benefits.

For Appellant

: Mr.K.M.Ramesh

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant.

2. The appellant was dismissed from service and the challenge raised before the Labour Court ended in failure. Learned counsel for the appellant contends that even on the issue of quantum of punishment, the Labour Court failed to apply the principles of Section 11A of the Industrial Disputes Act, 1947 appropriately, inasmuch as, the appellant had not been given due training and the overt act on the part of the Branch Manager has resulted in liability on the appellant. It is urged that the Branch Manager has faced criminal prosecution, where the appellant had appeared as a witness in support of the prosecution and recovery of the alleged loss of amount has also been made from the Branch Manager. In the given circumstances, the appellant cannot be punished with such a severe punishment even at the fag end of his career.

3. Having considered the submissions raised and keeping in view the nature of allegations made and the finding that the charge is established, it is apparent that the appellant has failed in his duty in testing the purity of gold ornaments, which were kept as security for securing loans and did ultimately result in a financial loss to the Bank. This is an issue relating to the fiduciary relationship between the appellant and the Bank and the trust reposed in him and consequently, it cannot be said, on the basis of the materials produced before the Labour Court, that the conclusions arrived were incorrect or dismissal was otherwise bad in law. We, therefore, do not find any error either factually or legally, so as to warrant interference in this appeal with the impugned judgment of the learned Single Judge with whose conclusion we entirely agree.

The appeal is, accordingly, consigned to records.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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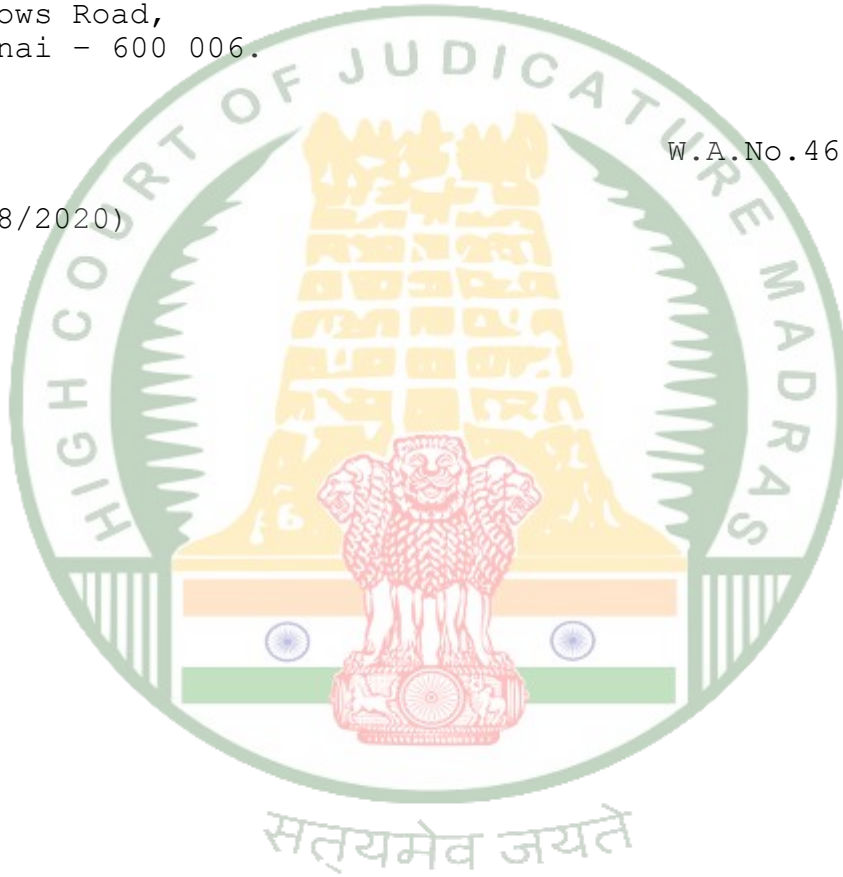
To

1.The Deputy General Manager,
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MR (CO)
CB (06/08/2020)



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