

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.Nos.809 and 831 of 2013

W.A.No.809/2013 :

Indian Overseas Bank Limited,
Habeeb Towers,
756, Anna Salai,
Chennai-600 002
rep. by General Manager ... Appellant

-vs-

1. The Deputy Commissioner of Labour I
(Appellate Authority under the Tamil Nadu
Shops and Establishments Act),
Chennai-600 006.
2. R N Saxena ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters
Patent against the order dated 25.02.2013 made in W.P.No.21363
of 2001 by a learned Single Judge of this Court.

Prayer in W.P.No.21363 of 2001:
Writ Petition filed under Article 226 of the Constitution of
India to issue a Writ of Certiorari calling for the records of
the first respondent in T.S.E Case No.23 of 1997 and quash its
order dated 06.11.2000. सत्यमेव जयते

For Appellant : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.
For 2nd Respondent : Mr.K.M.Ramesh

W.A.No.831/2013
R N Saxena ... Appellant

vs.

1. Indian Overseas Bank Limited,
Habeeb Towers,
756, Anna Salai,
Chennai-600 002
rep. by General Manager

2. 1. The Deputy Commissioner of Labour I
(Appellate Authority under the Tamil Nadu
Shops and Establishments Act),
Chennai-600 006.

... Respondents

For Appellant : Mr.Mr.K.M.Ramesh
For 1st Respondent : Anand Gopalan
for M/s.T.S.Gopalan and Co.

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 25.02.2013 made in W.P.No.21363 of 2001 by a learned Single Judge of this Court.

Prayer in W.P.No.21363 of 2001:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in T.S.E Case No.23 of 1997 and quash its order dated 06.11.2000.

COMMON JUDGMENT

(Judgment of the Court was pronounced by T.RAJA, J.)

Both these writ appeals have been filed against the order dated 25.02.2013 made in W.P.No.21363 of 2001 by a learned Single Judge of this Court.

2. When these matters were taken up, though several grounds have been raised assailing the impugned order, learned Counsel appearing for the Indian Overseas Bank mainly made his attack on the grounds that the delinquent-employee was not given an opportunity to cross-examine may not be a correct approach and that even in the cross-examination, since the delinquent has clearly admitted one of the major charges, the question of remanding the matter back to the Enquiry Officer is uncalled for. The learned Counsel further submitted that when once the delinquent has admitted in his cross-examination the vital charge levelled against him, no purpose is going to be served by re-doing the exercise by the Enquiry Officer.

3. It is, at this stage, learned Counsel for the delinquent-employee-2nd respondent in W.A.No.809/2013 and appellant in W.A.No.831/2013, while agreeing with the order of remand submitted that the learned Single Judge ought not to have remanded the matter back to the file of the Enquiry Officer, instead, the Appellate Authority who has power to re-appreciate the whole evidence should have been called upon to re-do the matter on remand. The reason being that instead of remanding the matter to the appellate authority, if the matter is gone back to the Enquiry Officer, it would prolong the matter

unnecessarily for quite sometime as the delinquent had already reached the age of superannuation. Secondly, the learned Counsel further submitted that as the delinquent employee has already reached the age of superannuation, the further exercise going to be undertaken by the remanding authority may not be going to yield any positive result to either of them. Therefore, some alternative punishment may be considered by this Court so that the matter can be closed at the earliest, he pleaded.

4. On one aspect, both the learned Counsels for the Indian Overseas Bank and the delinquent-employee requested us that instead of remanding the matter back to the Enquiry Officer, it can be remanded back to the appellate authority to re-do the matter afresh. Therefore, agreeing to the said joint request made by the learned Counsel on either side, keeping in mind that the delinquent had already reached the age of superannuation long time ago, we are inclined to modify the order of remand only thereby directing the appellate authority concerned to re-do the entire matter afresh appreciating the evidence both oral and documentary and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Order.

5. With the above observation, directing the appellate authority to re-do the entire exercise within a period of three months time from the date of receipt of a copy of this Order, the Writ Appeals stand disposed of. No costs. Needless to mention that without influenced by any of the observations made in the order of the Single Judge of this Court made in Writ Petition No.21363/2001 dated 25.02.2013 and in these Writ Appeals, the Appellate Authority shall proceed with the matter and dispose of the same on merits and in accordance with law.

6. Registry is directed to return the original documents back to the appellate authority, namely, the Deputy Commissioner of Labour-I (Appellate Authority under the Tamil Nadu Shops and Establishments Act), Chennai, who has been now re-designated as Special Deputy Commissioner of Labour-I, within a period of one week.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsi

To

- 1.The General Manager,
Indian Overseas Bank Limited,
Habeb Towers,
756, Anna Salai,
Chennai-600 002
2. The Deputy Commissioner of Labour I
(Appellate Authority under the Tamil Nadu
Shops and Establishments Act),
Chennai-600 006.
- 3.The Special Deputy Commissioner of Labour-I
(Appellate Authority under the Tamil Nadu Shops and
Establishments Act), Chennai-6.

Copy to:

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.T.S.Gopinath, Advocate SR.No. 31317

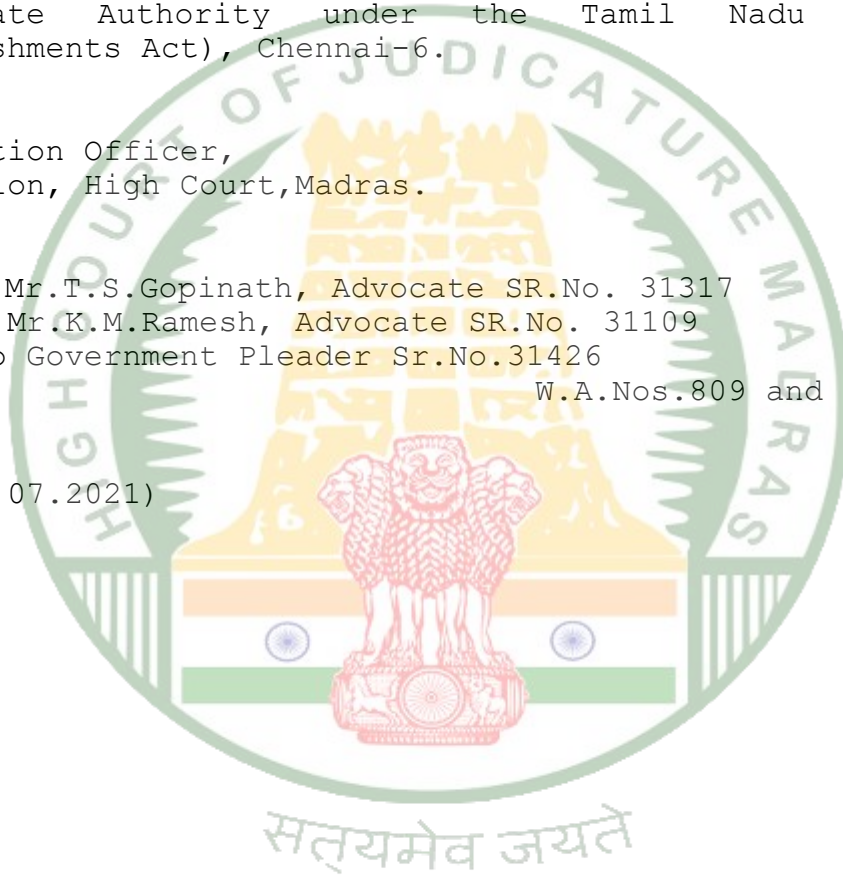
+1cc to Mr.K.M.Ramesh, Advocate SR.No. 31109

+1 cc to Government Pleader Sr.No.31426

W.A.Nos.809 and 831/2013

ss (CO)

A.SK(09.07.2021)



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