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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.08.2021

PRONOUNCED ON : 20.10.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.24471 of 2003

S.Sankar

... Petitioner

Vs.

1.The Presiding Officer,
Central Government Industrial
cum Labour Court,
Sasthri Bhavan,
Nungambakkam,
Chennai.

2.Canara Bank,
rep. by its Deputy General Manager,
Chennai-600 018.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the concerned records of the first respondent, quash the award passed by the first respondent dated 08.10.2001 in I.D.No.92 of 2001 and direct the second respondent to reinstate the petitioner in service with continuity of service, full backwages and all other attendant benefits.

For Petitioner : Mr.Balan Haridas

For Respondent :Mr.T.R.Sathiya Mohan
No.2

O R D E R

The present Writ Petition is heard through Video Conferencing on 16.08.2021.

2. The petitioner herein, who was in the panel of daily wages employee under the second respondent bank, was charged of having unauthorizedly used the cheque book of a customer of the bank, with the fraudulent intention of withdrawing the amount by forging the signature of the account holder. The charges against him were held to be proved in the enquiry and



accordingly, he was ordered to be removed from the panel of daily wages on 02.06.1994. The Industrial Tribunal, had affirmed the action of the bank in removing the petitioner from the panel through the impugned Award dated 08.10.2001.

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3. The Award of the Tribunal is assailed on the ground that, it is perverse and based on "no evidence".

4. Before the Industrial Tribunal, the petitioner/workman had not let in any oral or documentary evidences at all. On the other hand, the Management had marked 22 documents in their support. A perusal of the impugned Award reveals that the Tribunal had taken into consideration of the fact that the enquiry officer had extended due opportunity to the delinquent by permitting him to put forth his objections and cross examine all the Management Witnesses and thereby had come to the conclusions that the enquiry had done in a fair and proper manner. Likewise, while analysing as to whether the punishment of removal from the panel of daily wages and to determine whether the order was legal or not, the Tribunal had taken note of the exhibits filed before it and also took into account that the charge against the petitioner herein was proved in the enquiry by establishing that the cheque in question was forged and there was a fraudulent withdrawal of Rs.60,000/- from the account of a customer of the bank. That apart, the relief of reinstatement was denied on the ground that the petitioner was only a daily wager and not in the regular rolls of the bank. When the Tribunal had fully appreciated the fact that the investigating officer was thoroughly cross examined by the defence prosecutor during the course of enquiry and the signature in the disputed cheque was established through the Forensic Science Department Handwriting Expert's report, it cannot be said that the ultimate decision of approving the punishment imposed on the petitioner, is either perverse or based on "no evidence".

5. All the grounds raised in the present Writ Petition touching upon the evidences before the Tribunal including the Forensic Expert's report, is in the manner of re-appreciation of the evidences before the Tribunal. Such re-appreciation of evidences by this Court exercising its power under Article 226 of the Constitution of India, is impermissible. Above all, if at all the petitioner intends to find fault with any of the evidences before the Tribunal, he had the opportunity to establish the same before the Tribunal by letting in oral and documentary evidences. However, the petitioner had not chosen to let in any evidence at all before the Tribunal and hence this Court would not appreciate or encourage the petitioner who had failed to exercise his right at the appropriate stage of the proceedings. Thus, both the grounds raised by the petitioner



that the award is mulcted with perversity and based on "no evidence", cannot be sustained.

6. In the result, the Writ Petition stands dismissed. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Presiding Officer,
Central Government Industrial
cum Labour Court,
Sasthri Bhavan,
Nungambakkam,
Chennai.

2.The Deputy General Manager,
Canara Bank,
Chennai-600 018.

+1cc to Mr.T.R.Sathiya Mohan, Advocate, S.R.No.53949

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KV(CO)
GN(01/11/2021)