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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.343 of 2020

State Bank Staff Union (CC),
Reg.No.883, rep. by its Deputy General,
Secretary, C/o State Bank of India,
Zonal Office, Madurai ... Appellant/1st Respondent

Vs.

1. State Bank of India,
represented by its Deputy General Manager,
Region-1, Zonal Office,
Dr.Ambedkar Road,
Madurai-625 002.

2. The Central Government Industrial Tribunal
-cum- Labour Court,
26, Haddows Road,
Shastri Bhavan, Chennai-06.

...Respondents/Petitioner/2nd Respondent

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by the learned single Judge dated 12.09.2019 in W.P.No.6019 of 2010.

Prayer in W.P.No.6019/2010:

To issue a Writ of Certiorari, to call for the records relating to the impugned award made in I.D. No. 17/2008 dated 07.07.2009 on the file of the Central Government Industrial Tribunal, Chennai (the Second Respondent herein) and quash the same as illegal and unsustainable.

For Appellant	.. Mr.K.M.Ramesh
For Respondents	.. Mr.B.Raghavulu Naidu - R1
	R2- Tribunal



JUDGMENT

(Order of the Court was made by R.N.MANJULA, J.)

This Writ Appeal has been preferred against the order of the learned single Judge, dated 12.09.2019 in W.P.No.6019 of 2010, in and by which, the Writ Petition filed by the 1st respondent/Management against the award passed by the 2nd respondent/Tribunal, was allowed.

2. The above said Writ Petition has been filed by the 1st respondent/Management, seeking to set aside the award passed by the 2nd respondent/Industrial Tribunal-cum-Labour Court, wherein, the period between the date of dismissal and the date of reinstatement of the employee, Thiru P.Murugan, i.e. from 19.9.1986 to 28.06.1991, has been ordered to be treated as 'continuity of service'.

3. The brief facts of the case which culminated into the award of the Tribunal vis-a-vis the order of the learned single Judge of this Court in the Writ Petition, are as follows:

3.1 One Thiru P.Murugan who is the employee of the 1st respondent/Management, was charged with the misconduct of bigamous marriage and for claiming excess T.A.Bills and Medical Bills for his second wife. In the disciplinary proceedings levelled against the employee, the charges against him were proved and consequently, he was inflicted with the punishment of dismissal from service. Aggrieved over the same, the employee challenged the order of dismissal by way of filing a Writ Petition in W.P.No.6624 of 1987 before this Court. The same was allowed by this Court vide its order dated 01.02.1991 giving the limited relief by issuing a direction to the 1st respondent/Management to furnish enquiry report to the employee along with second show cause notice.

3.2. After giving the second show cause notice and receiving the representation of the employee, the Appellate Authority considered and modified the punishment to stoppage of increment for two years and the employee was ordered to be reinstated into service. The period of suspension from 19.09.1985 to 18.09.1986 has been ordered to be treated as 'suspension, however, the period between the date of dismissal and the date of reporting duty by the employee on his reinstatement into service, i.e. 20.09.1986 to 21.01.1992 has been ordered to be treated as 'break of service. The order of the Appellate Authority, dated 19.12.1991 to this effect, reads as under:

"We refer to your appeal dt.14.08.1991
and the personal hearing in the matter with



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the Appellate Authority at 11.00 a.m. on 11.12.1991 at this office with our Defence Representative.

"2. I have fully gone through your appeal, relevant records of the case and perused your service record. As you had put in only seven years of service, with a hope that you will not indulge in any acts of misconduct in future and give room for any action by the Bank, in order to reform you, I decided to have take a lenient view of the whole matter and revise the punishment already imposed on you, viz., 'Dismissal without notice' to 'stoppage of increments for two years' and reinstate you in Bank's service with effect forthwith which would meet the ends of justice. Further, I direct that the period from the date of dismissal upto the date of reporting on reinstatement in Bank's service be treated as Break of Service. Please note that the period of suspension from 19.09.1985 to 19.09.1986 will be treated as suspension only. I pass orders accordingly.

Sd/-

Divisional Regional Manager,
Appellate Authority."

4. It is pertinent to note that the employee had accepted the above said order and he had chosen to join duty. Even at the time of joining the duty, he did not have any reservation as to the order with regard to the 'break of service' passed by the Appellate Authority. However, after a lapse of 15 years, the employee raised an industrial dispute, challenging the order of 'break of service', before the 2nd respondent/Tribunal. The 2nd respondent/Tribunal, passed an award in favour of the employee by treating the period between the date of dismissal from service and the date of reinstatement, i.e. from 20.09.1986 to 21.01.1992 as the period of 'suspension' and not as 'break of service. However, the 2nd respondent/Tribunal did not find fault with the finding of the Disciplinary Authority that the charges levelled against the employee were proved.

5. The employee, having accepted the modified order of the Appellate Authority, had chosen to join service without any protest. He did not raise any dispute and kept silent for nearly 15 years and thereafter, all of a sudden, he raised an industrial dispute, to consider the period between the dismissal



from service and the reinstatement as that of continuation of service' and not break of service. The extraordinary delay of 15 years would show the conduct of the employee that he acquiesced the modified punishment and accepted the same in entirety. Though the allegation of misconduct against the employee was proved and a grave punishment of dismissal from service was imposed on him, the Appellate Authority was gracious enough to show indulgence by considering the young age of the employee and had taken a lenient view in the matter of punishment and drastically reduced it from the order of dismissal to stoppage of two increments with reinstatement.

6. The Appellate Authority has not chosen to regularize the period of absence of the employee by treating it as continuity of service. The 2nd respondent/Tribunal had omitted to take serious note of the delay and laches on the part of the employee in raising the industrial dispute after a lapse of 15 years. Had the 2nd respondent/Tribunal properly appreciated the material events and the conduct of the employee, it would not have passed the award as prayed for by the employee.

7. The learned single Judge had taken note of the short-sighted order of the 2nd respondent/Tribunal and rightly set aside the same. While doing so, the learned single Judge has appreciated all the events that had taken place right from the date of initiation of disciplinary proceedings against the employee. The order of the learned single Judge in reversing the award and allowing the Writ Petition filed by the 1st respondent/Management, in our view, is perfectly in order and we do not find any error in order to interfere with the same.

Accordingly, the Writ Appeal fails and it is dismissed. No costs.

s/d-
Assistant Registrar (CS-VI)

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Sub-Assistant Registrar

suk
To

1. The Deputy General Manager,
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+1 CC to Mr.K.M.Ramesh, Advocate sr 28241.
+1 CC to Mr.S. Kanniah, Advocate sr 28327.

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AK(CO)
SP(20/07/2021)