



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.09.2021

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THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P.No.20337 of 2011

Mr.Kasinathan

...Petitioner

-Vs-

1. The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Shashtri Bhawan, Haddows Road,
Chennai - 600 006.

2. The General Manager,
Indian Bank, Head Office,
66, Rajaji Salai, Chennai - 600 001. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records and papers from the files of the 1st Respondent relating to I.D.No.36 of 2009 and quash its impugned award dated 18.01.2011 rejecting and denying the claim of the petitioner for reinstatement in service, with back wages, with continuity of service and with all other attendant benefits to award costs.

For Petitioner : Mr.K.M.Ramesh

For R2 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

For R1 : Court

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. Based on certain charges to the effect that the petitioner had misappropriated the Bank's cash as well forgery of signatures, an enquiry was conducted, pursuant to which, the petitioner was imposed with a punishment of compulsory retirement.



3. The learned counsel for the petitioner would submit that the impugned order passed by the Tribunal is a non-speaking order and not in conformity with the procedure laid down under Section 11A of the Industrial Disputes Act, 1947 and therefore sought for remitting back the matter to the Tribunal for reconsideration.

4. The learned counsel for the second respondent-Bank would submit that this is a case where the petitioner had confessed to the incidents stated in the charges, pursuant to which, he was imposed with a punishment by permitting him to go on compulsory retirement. Hence, he would submit that this case need not be remitted back to the Tribunal.

5. Section 11A of the Industrial Disputes Act imposes a duty on the Tribunals to adjudicate the proceedings and the procedure to be adopted under the provisions has been substantiated by a Hon'ble Division Bench of this Court in the case of Engine Valves Ltd., Madras Vs. Labour Court, Madras and another reported in (1983) 1 MLJ 427 in the following manner:

"18. The decision of this Court in Madras Fertilisers case (1990-I L.L.N.477) (vide supra), relied upon by the learned counsel for the respondents only lays down that where the Labour Court has not made a proper exercise of the discretion vested in it under S. 11A of the Act, this Court in the exercise of its powers under Art. 226 of the Constitution of India can certainly do what the Labour Court failed to do. Having regard to the principles referred to above, we are of the view that the power and discretion conferred under S.11A of the Act have to be exercised judicially and judiciously and that there should be sufficient indication in the order itself of the fact that the Court exercising powers under S. 11A of the Act was aware of and alive to the norms and requirements of S. 11A of the Act. The Court exercising powers under S. 11A of the Act after finding the mis-conduct to have been proved is first obliged to advert itself to the question of necessity or desirability to interfere with the punishment imposed by the management and, if the management could not justify the punishment imposed thereafter it must consider the question as to the relief that is to be granted to the employee. In so considering the relief to be granted, the Court has an obligation to consider whether the punishment imposed is disproportionate or shockingly



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severe to the charges held proved and if so whether a reinstatement has to be ordered or whether any other lesser punishment has to be imposed. A specific finding must be recorded whether it was expedient and proper to reinstate the employee or whether award of compensation in lieu of reinstatement will meet the requirements and ends of justice of the case concerned. Absence of reasons to invoke the power and interfere under the provisions of S. 11A in a particular case would render the very exercise of powers arbitrary and perverse and the order consequently would stand vitiated."

6. In this background, a perusal of the impugned order passed by the Tribunal reveals that apart from stating that the Tribunal had objectively derived the satisfaction on the facts of the case, there is absolutely no discussion as to how such a decision was arrived at. This is contrary to the procedure laid down under Section 11A as well as the ratio laid down in Engine Valves case (supra). Thus, this Court is of the view that the matter could be remitted back to the Tribunal for reconsideration in conformity with the observations made in this order.

7. In the light of the above observations, the impugned order dated 18.01.2011 passed by the first respondent herein is quashed and the matter is remitted back to the first respondent herein for reconsideration. The first respondent herein shall reconsider the case in accordance with the procedure contemplated under Section 11A of the Industrial Disputes Act, 1947 and pass final orders as expeditiously as possible. It is made clear that this Court has not expressed any of its views with regard to the merits of the case and that the Tribunal would be at liberty to consider the case on its own merits and in accordance with law.

8. The Writ Petition stands ordered, accordingly. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

hvk/ata



To

The Presiding Officer,
Central Government Industrial Tribunal
-cum- Labour Court,
Shashtri Bhawan, Haddows Road,
Chennai - 600 006.

+1 cc to Mr.M.Ramesh, Advocate Sr.NO.46457

+1 cc to Mr.T.S.Gopalan & Co, Advocate Sr.NO. 47102

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A.SK(11.10.2021)