



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 14892 of 2013

WEB COPY

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... Petitioner

-vs-

1.The General Manager,
Indian Overseas Bank,
Central Office, No.763, Annasalai,
Chennai - 600 025.

2.The Deputy General Manager,
Indian Overseas Bank, The Appellate Authority,
Central Office, No.763, Annasalai,
Chennai - 600 025.

3.The Senior Manager,
Conduct & Disciplinary Action Cell,
Indian Overseas Bank,
Central Office, No.763, Annasalai,
Chennai - 600 025.

4.The Branch Manager,
Indian Overseas Bank,
Ambalpuram Branch,
Karaikudi.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the original records pertaining to the impugned orders passed by the Third Respondent in No.VIG:SM(PGS):DA:F-8016:2012-13 dated 31.12.2012 and No.VIG:DGM(RK):AA:F-8016:2013-14 dated 15.04.2013 of Second Respondent and quash the same and consequently directing the respondents to reinstate the Petitioner on duty with continuity of service and all consequential benefits.

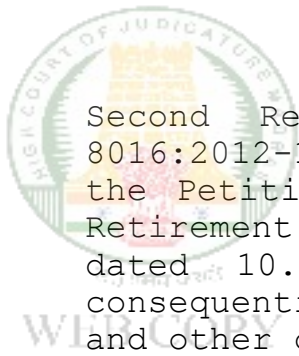
For Petitioner : Mr. A. V. Rajasekaran
For Respondents : Mr. N. G. R. Prasad

ORDER

Heard Mr. A. V. Rajasekaran, Learned Counsel for the Petitioner and Mr. N. G. R. Prasad, Learned Counsel for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the Order No.VIG: DGM(RK):AA:F-8016:2013-14 dated 15.04.2013 passed by the

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Second Respondent confirming the order No.VIG:SM(PGS):DA:F-8016:2012-13 dated 31.12.2012 passed by Third Respondent by which the Petitioner has been inflicted with a punishment of Compulsory Retirement in terms of Clause 6(c) of Memorandum of Settlement dated 10.04.2002 between the Bank and its Workmen and for consequential direction to reinstate him with continuity of service and other consequential benefits.

3. Though the Petitioner, who is a 'workman' within the meaning of the Industrial Disputes Act, 1947, has the remedy of raising an industrial dispute before the jurisdictional Labour Court for the relief sought in this Writ Petition, no justification has been shown either in the affidavit filed in support of the Writ Petition or during the course of submissions for having not availed the same and directly approached this Court through this Writ Petition as ruled by the Hon'ble Supreme Court of India in **State of Uttar Pradesh -vs- Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti** [(2008) 12 SCC 675]. It is beyond cavil that in exercise of discretionary powers of judicial review conferred under Article 226 of the Constitution, it is only the decision making process that could be examined and the High Court cannot interfere with the decision itself merely because another view is possible, unlike the Labour Court under the Industrial Disputes Act, 1947, which has the power to take additional evidence when it is established that the domestic enquiry suffers from any defect or is in violation of the principles of natural justice and also substitute with lesser punishment, if it is not commensurate with the gravity of the proved misconduct.

4. In view of the aforesaid legal position viz-a-viz the factual disputes canvassed, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also filed a memo dated 28.06.2021 through e-mail to that effect which is placed on record.

Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that for the purpose of reckoning limitation in availing that remedy, the period from the date of filing of this Writ Petition i.e., 23.08.2013 till the date on which the certified copy of this order is made ready by the Registry shall be excluded. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-20591[F] dated 29/06/2021)

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MJ(CO)
TR(06.07.2021) 3P 2C