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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.09.2021

PRONOUNCED ON : 24.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.22644 of 2012 & W.P.2764 of 2013
and M.P.Nos.1 & 2 of 2012

In W.P.No.22644 of 2012:

The Indian Bank,
4, Bharathi Road,
AVR Tower,
Cuddalore 607 001
rep. by its Zonal Manager.

... Petitioner

Vs.

1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Chennai.

2.R.Thangarajan (Deceased)

3.T.Malathi

4.T.Karthikeyan
[R3 & R4 substituted as LR's of deceased
respondent R2 vide order dated 07.09.2021
made in WMP.No.27755/2019 in WP.22644/2012]
... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent in I.D.No.26 of 2008 and to quash the award dated 08.02.2012.

In W.P.No.2764 of 2013:

1.R.Thangarajan (Deceased)

2.T.Malathi

3.T.Karthikeyan
[P2 & P3 substituted as LR's of deceased
respondent P1 vide order dated 18.10.2019
made in WMP.No.27751/2019
in WP.2764/2013]

... Petitioners



Vs.

1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Chennai.

2.The Indian Bank,
rep. by its Zonal Manager,
4, Bharathi Road,
AVR Tower,
Cuddalore 607 001.

... 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 records of the first respondent, quash the award passed by the first respondent Tribunal dated 08.02.2012 in I.D.No.26 of 2008 insofar as denying back wages as illegal, arbitrary and contrary to law and consequently direct the second respondent Bank to pay full back wages.

For Petitioners : Mr.Balan Haridas
in W.P.2764/2013
& Respondents 3 & 4
in W.P.22644/2012
For Respondent-2 : Mr.Anand Gopalan
in W.P.2764/2013 for M/s.T.S.Gopalan & Co.
& Petitioner in
W.P.22644/2012

C O M M O N O R D E R

An Indian Bank employee was subjected to a domestic enquiry under a charge sheet dated 18.08.2004, alleging abetment for forgery for issuance of a "No Due Certificate" to Vallalar Grama Bank, Sethiathope and also for receiving a bribe of Rs.50/- in this regard. The charges were held as proved by the enquiry officer and the punishment of censure and compulsory retirement from service with superannuation benefits was imposed on 09.10.2006. The punishment was confirmed in appeal by the Appellate Authority on 20.11.2006.

2. The dispute was referred and taken up on file by the Central Government Industrial Tribunal cum Labour Court, Chennai in I.D.No.26 of 2008 and through the impugned award dated 04.03.2011, the punishment was set aside and the employee was directed to be reinstated into service, together with continuity of service, but without back wages. Aggrieved against the award of reinstatement and continuity of service, the Bank has filed W.P.No.22664 of 2012 and the denial of back wages has been challenged in W.P.No.2764 of 2013. Both these Writ Petitions are dealt with in this common order.



3. Pending Writ Petition, the employee had reached the age of superannuation on 30.11.2016 and subsequently died on 03.06.2019. His legal heirs have been substituted in his place.

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4. The Industrial Tribunal had found that the charge of bribery against the employee was not substantiated owing to lack of cogent evidence. On the evidences available before it, it was held that M.W.2 had stated that the amount of Rs.50/- was paid as bus expenses and there was no proof for demand or payment of bribe. Likewise, the charge with regard to removal of the voucher containing the signature of the Branch Manager and forging his signature was not substantiated and the Tribunal had proceeded on the basis that such charges, cannot be substantiated only on the basis of suspicion. It is in this background, the Tribunal had come to the conclusion that the punishment of compulsory retirement was not appropriate and accordingly, set aside the punishment by ordering reinstatement. This is not a case of an award being passed on the basis of "No Evidence". It is a settled proposition that the scope of inference to such an award under Article 226 of the Constitution of India, is very limited and the grounds raised by the Management, as well as the employee, seeking to interfere with the award, are not such exceptions that may warrant interference.

5. In the result, I do not find any infirmity in the award. Accordingly, both the Writ Petitions stand dismissed. In view of the dismissal of these Writ Petitions, the legal heirs of the deceased employee would be entitled to receive the terminal benefits, including the unpaid salary from the date of the award, till the date of the employee reaching his age of superannuation. The Bank shall endeavor to disburse such monetary benefits, atleast, within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

DP

To

The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court, Chennai 6.

+1 cc to M/s.T.S.Gopalan & Co. ., Advocate Sr.NO.4331

+1 cc to Mr.Balan Haridas, Advocate Sr.NO. 4561

W.P.No.22644 of 2012

& W.P.2764 of 2013 and M.P.Nos.1 & 2 of 2012

bs (CO)

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A.SK(02.02.2022)