



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.2413 of 2019

K.Balasaravanan

... Appellant

vs

- 1.The Union of India,
Department of Labour and Employment,
Shram Sakthi Bhawan,
Rafi Marg, New Delhi - 110 001.
- 2.The Regional Labour Commissioner (Central),
Kanaga Apartments,
Suite No.III, I Floor,
13-A, Lady Dock College Road,
Chinna Chokkikulam,
Madurai - 625 002.
- 3.The General Manager,
Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai - 600 002.
- 4.The Assistant General Manager,
Indian Overseas Bank,
Zonal Office,
No.11/952, Cross Cut Road,
Gandhipuram,
Coimbatore.
- 5.The Management of Indian Overseas Bank,
represented by its Branch Manager,
Maranthai Branch,
No.3/332, Courtallam Main Road,
Alangulam Taluk,
Tirunelveli District.

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 29.03.2019 passed in W.P. No.8819 of 2018.



Prayer in W.P. No.8819 of 2018 : Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certioraified Mandamus calling for the records in connection with the impugned order issued by the Section Officer of the 1st respondent bearing Ref. No.L 12012/ 65/2017-IR(B-II) dated 16.01.2018 and quash the same and further direct the 1st respondent Government of India to refer the Industrial Dispute raised by the petitioner against his termination from service with effect from 18.12.2015 covered by the conciliation Failure Report of the 2nd respondent bearing Ref.No.7/2/2017 RM dated 27.07.2017.

For Appellant : Ms.S.Latha

For Respondents: No appearance for R1 and R2
Mr.K.Srinivasa Murthy for R3 to R5

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This writ appeal has been directed against the impugned order dated 29.03.2019 passed in W.P. No.8819 of 2018, in and by which, the learned Single Judge, while observing that the Hon'ble Supreme Court has held that jewel appraisers of the respondent bank are not employees in the decision reported in 2006 (3) SCC 729 in Indian Overseas Bank vs. Workmen, has dismissed the petition.

2.Learned counsel appearing for the appellant submitted that the General Manager, Indian Overseas Bank, Chennai, the third respondent herein is a Public Sector Bank and the appellant joined the service of the third respondent Bank with effect from 05.05.2014 as a Jewel Appraiser. Learned counsel appearing for the appellant further submitted that when no charge memo or allegation made against the appellant during his service, the Branch Manager of the third respondent Bank terminated him from service with effect from 18.12.2015. Learned counsel for the appellant further submitted that the Regional Office vide letter dated 30.06.2016 informed the appellant that they had received a complaint stating that he had misbehaved with one Nellai Vadivu on 18.08.2015 and therefore, the appellant made representations dated 11.03.2016 and 12.03.2016 requesting for reinstatement. But, the General Manager, Indian Overseas Bank, Chennai, vide letter dated 20.04.2016 had refused to re-instate the appellant. Therefore, the appellant, being a workman under Section 2(s) of the Industrial Disputes Act 1947, raised an Industrial Dispute under Section 2(k) of the Industrial Disputes Act before the Regional Labour Commissioner (Central), the second respondent herein. Thereafter, the Failure



of Conciliation Report dated 27.07.2017 was referred to the Section Officer, Government of India, New Delhi, who has travelled beyond the scope of the issue and held that the dispute was not deemed fit for adjudication. Since the said conclusion reached by the first respondent has been wrongly upheld by the learned Single Judge, the present appeal has been filed. Arguing further learned counsel for the appellant submitted that when the appellant was appointed as a Jewel Appraiser in the third respondent Bank, without there being any enquiry whatsoever and any charge memo issued against the appellant indicating the allegation/charges, for which, an Enquiry should be held in the manner known to law, the third respondent Bank has terminated the appellant violating the principles of natural justice.

3. Heard the learned counsel for the appellant and the learned counsel for respondents 3 to 5.

4. We do not agree with the said submission of the learned counsel for the appellant. The reason being that the issue whether jewel appraisers working in the Bank on contract basis are workmen or not has already been settled by the Hon'ble Apex Court. Therefore, the part - time jewel appraisers are not brought under Section 2(k) of the Industrial Disputes Act and hence, they cannot raise the dispute before the Labour Court. Moreover, the Hon'ble Apex Court in the case of Indian Overseas Bank vs. Workmen jewel appraiser, reported in 2006 (3) SCC 729 has clearly held that the jewel appraisers working in the Bank are not employees. Therefore, the Government also has rightly refused to refer the matter before the Labour Court, since the same would be wasteful and meaningless exercise.

5. Hence for the reasons stated above, we are not inclined to interfere with the impugned order passed by the learned Single Judge. Accordingly, this writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

vga



To

- 1.The Union of India,
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+1cc to Mr.N.G.R.Prasad, Advocate SR.No.11784

W.A.No.2413 of 2019

SPD(CO)
GMY(14/03/2022)