



W.P.No.19350 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
02.11.2023

PRONOUNCED ON
27.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.19350 of 2012
and M.P.No.1 of 2012

The Deputy General Manager,
State Bank of India, Zonal Office,
No.2, Maduram Complex,
Dr.Ambedkar Road,
Madurai.

.... Petitioner

Vs

1.The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
Chennai – 600 006.

2.V.Thomas

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the 1st respondent in I.D.No.1 of 2007 dated 03.04.2012 and to quash the same.

For Petitioner : Mrs.Malarvizhi Udayakumar

For Respondents : R1 – Labour Court



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R2 – No appearance

ORDER

The Management being aggrieved against the award passed by the 1st respondent in holding that the punishment imposed on the 2nd respondent was disproportionate had directed reinstatement of the 2nd respondent with 40% backwages and continuity of services and other attendant benefits and allow the respondent to superannuate by holding that forfeiture of 60% of backwages as proper punishment for proved misconduct.

2. Heard Mrs.Malarvizhi Udayakumar, learned counsel for the petitioner.

3. In spite of notice being served to the 2nd respondent, he had neither entered appearance in person nor through a counsel before this Court.

4. Mrs.Malarvizhi Udayakumar, learned counsel for the petitioner would submit that the 2nd respondent had joined services of the petitioner as a watchman in the year 1994 and for various misconduct charges were



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initiated against the 2nd respondent and after following all the procedures, the 2nd respondent had been terminated from service. The same had also been confirmed by the Appellate Authority. Being aggrieved, the 2nd respondent had raised an Industrial Dispute. She would submit that the 1st respondent had found that the enquiry that had been conducted against the 2nd respondent was fair and proper. But, however, went into the findings and reappreciated the evidence and had held that the charges 1 and 2 alone were proved and charges 3 to 5 were not proved and therefore, had come to the conclusion that the order of dismissal was disproved and had set aside the order of dismissal and directed reinstatement with 40% backwages and continuity of service and all other attendant benefits. She would submit that the 1st respondent had held that the forfeiture of 60% of backwages would be a sufficient punishment that has to be imposed on the 2nd respondent.

5. She would vehemently submit that once having found that the disciplinary proceedings was fair and proper, the Tribunal does not have jurisdiction to revisit, reappreciate the evidences that had been let into during the enquiry and come to a different conclusion that had been arrived



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at by the enquiry officer and accepted by the Disciplinary Authority in imposing the order of punishment. She would submit that even for the charges that has been held to be proved by the 1st respondent, there is no infirmity in the order of punishment of dismissal that had been imposed by the petitioner. Therefore, the order impugned would have to be necessarily interfered with and order of dismissal to be restored.

6. I have heard the submissions made by the learned counsel for the petitioner and also perused the materials available on record before this Court.

7. The following are the gist of the charges that had been framed against the 2nd respondent.

“Charge Memo issued to the second respondent on 21.11.2000, by the Assistant General Manager, Region-III (Disciplinary Authority)

Charge No.1

Failure to wear uniform in spite of directions and refusal to receive letter in that connection.

Charge No.2



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*Abusing the Branch Manager who cautioned
him to behave properly.*

Charge No.3

*Possession of knife contravening security
manual*

Charge No.4

*Being found under influence of alcohol while on duty
04.04.2000 against security manual and*

Charge No.5

*Causing damage to the image of bank by habitually
threatening bank customers.”*

upon the charges being framed, the petitioner had followed the procedure contemplated and had imposed an order of punishment on the enquiry officer submitting his report and not being satisfied with the further explanation given by the 2nd respondent. The said order of punishment had also been confirmed by the Appellate Authority. The Tribunal had also given a categorical finding that the enquiry had been held in a fair and proper manner. However, the Tribunal had reappreciated the evidence and had held that the charges 1 and 2 to be proved and charges 3 to 5 were not



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proved. Charges 1 and 2 was that the 2nd respondent had failed to wear his uniform in spite of directions issued in that aspect and has also abused the Branch Manager who had cautioned him to behave properly during the working hours. Charge No. 5 was that he had caused damage to the image of the Bank by habitually threatening the Bank customers. When the Tribunal had found that the delinquency that had been charged as 1 and 2 as being proved it would mean that the 2nd respondent had behaved unruly during his working hours. Such conduct of the 2nd respondent would only show that he is unbecoming of a servant of a Bank for his services to be discontinued. But, in the contrary, the 1st respondent/Tribunal had held that such punishment was disproportionate to the charges that had been proved according to the Tribunal.

8. I have gone through the Award of the Industrial Tribunal. Even though I am of the view that the Tribunal ought not to have reappreciated the evidence, I am of the considered view that the Tribunal while reappreciating the evidence had not appreciated the evidences that had been available in its proper perspective to come to a different conclusion as that



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had been arrived at by the enquiry officer and accepted by the disciplinary authority.

9. In view of the aforesaid reasonings, I am inclined to interfere with the award passed by the Tribunal in interfering with the order of dismissal. In fine, this Writ Petition is allowed and the order of the Tribunal is set aside and the order passed by the petitioner in passing an order of dismissal is affirmed. However, there shall be no order as to costs.

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gba
Index : Yes/No
Speaking order : Yes/No

To

The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
Chennai – 600 006.



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K.KUMARESH BABU, J.

GBA

A Pre-delivery order made in
W.P.No.19350 of 2012
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