



WEB COPY



W.A. No.1400 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No.1400 of 2018 & C.M.P. Nos.11100 & 10858 of 2019

The Chief General Manager
State Bank of India
Local Head Office
Chennai

Appellant

v

1 Central Government Industrial Tribunal-cum-
Labour Court
Chennai
Block No.1, Sastry Bhavan
Haddows Road
Chennai 600 034

2 A. Bose

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the
order dated 05.10.2017 passed in W.P. No.16677 of 2004.

For appellant

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

R1

Court

For R2

Mr. R. Arumugam

- - - - -



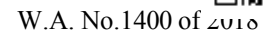
JUDGMENT

For the sake of clarity, the parties will be referred to as per their rank in this writ appeal.

2 The summary of the facts giving rise to the filing of this writ appeal is as under:

2.1 The second respondent workman joined as Clerk-cum-Typist in the appellat bank on 22.12.1987. While so, for certain acts of misconduct, he was issued with a charge memo and not satisfied with his reply therefor, an enquiry was conducted in which it was held that the charges levelled against him were proved. Eventually, by order dated 03.10.2000, he was removed from service by the disciplinary authority as per the provisions contained in Paragraph 521(5)(b) of the Sastry Award read with Paragraph 18.28 of the Desai Award.

2.2 Thereagainst, he preferred an appeal before the appellate authority which also ended in dismissal, against which, he raised an industrial dispute in I.D. No.54 of 2002 before the first respondent Tribunal. The first respondent Tribunal, *vide* award dated 07.01.2004, though held that the misconduct was established and proved, by invoking Section 11-A of the Industrial Disputes Act, 1947, found that the punishment of removal from service was harsh and hence,



2.3 Thereagainst, the appellant bank preferred a writ petition being W.P.No.16677 of 2004, in which, the Single Bench, *vide* order dated 05.10.2017, observing that the first respondent Tribunal has rightly exercised its extraordinary jurisdiction in modifying the punishment, dismissed the writ petition.

2.4 The aforesaid order passed by the Single Bench is assailed by the bank in this writ appeal.

3 Though a catena of decisions was relied on by either side before the Single Bench, the admission of his own guilt by the second respondent workman would suffice for imposition of punishment on him. However, since the first respondent Tribunal, by invoking Section 11-A, *ibid.*, has modified the punishment as stated in paragraph 2.2, *supra*, which has been confirmed by the Single Bench, there is no need for judicial review.

4 At this juncture, it will not be out of place to point out that trite it is

that the Labour Court as well as this Court has got powers to interfere with the



punishment if the same is shockingly disproportionate. In this case, the second respondent workman has tampered with his own bank account which is also a misconduct in terms of the bi-partite settlement. However, it is to be noted that owing to that act, the appellant bank has not suffered any loss. Yet, this kind of an act cannot be tolerated by anyone, much less by a bank which deals with investors' hard earned money. At the same time, though the second respondent workman has tampered with his own bank account, in our opinion, he cannot be termed as untrustworthy. As the Labour Court held and as confirmed by the Single Bench, we are also of the view that the capital punishment of removal from service imposed by the appellant bank on the second respondent workman does shock our conscience as it is very much disproportionate to the gravity of his misconduct. The second respondent workman had the benefit of wages under Section 17-B, *ibid.*, throughout the pendency of the proceedings in the High Court till he attained the age of superannuation.

5 However, at the same time, 50% of backwages as awarded by the first respondent Tribunal does not cut ice with us and hence, the said portion of the award of the first respondent Tribunal is interfered with. Further, since the question of reinstatement does not arise, inasmuch as the second respondent workman had reached the age of superannuation, we hold that the actual period of service alone shall have to be taken into account for the purpose of grant of



W.A. No.1400 of 2018

Gratuity, Provident Fund and Earned Leave. For grant of pension only, the entire service upto the date of his superannuation shall be reckoned. It is made clear that it would suffice if the second respondent workman is granted pensionary benefits with effect from 01.08.2023 based on his last drawn wages and he is not entitled to arrears of pension prior to 01.08.2023. Further, the wages paid to him under Section 17-B, *ibid.*, if any, cannot be recovered.

This writ appeal stands disposed of in the above terms. Costs made easy.
Connected C.M.Ps. are closed.

(S.V.N., J.) (K.R.S., J.)
13.07.2023

cad

Note to Office: Issue order copy by 26.07.2023



WEB COPY



W.A. No.1400 of 2018

S. VAIDYANATHAN, J.

and

K. RAJASEKAR, J.

cad

To

The Presiding Officer
Central Government Industrial Tribunal-cum-
Labour Court
Chennai
Block No.1, Sastry Bhavan
Haddows Road
Chennai 600 034

W.A. No.1400 of 2018

13.07.2023