



W.P.No.7857 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	01.03.2023
<i>Pronounced on</i>	13.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.7857 of 2012

State Bank of India,
Rep. by its Assistant General Manager,
Zonal Office, Mc Donalds Road,
Trichy – 620 001.

... Petitioner

Vs.

1.K.Mookan (Deceased)

2.The Presiding Officer,
Central Government Industrial
Tribunal Cum Labour Court,
Chennai.

3.Pattathal

4.Rajalakshmi

5.Munusamy

6.Kanimozhi

(R3 to R6 are substituted as LR's of deceased R1 as per order dated
15.11.2019 made in M.P.No.1 of 2014 in W.P.No.7857 of 2012 by SMSJ)



W.P.No.7857 of 2012

... Respondents/Respondent in all Contempt Petitions

PRAYER:- This writ petition has been filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorari calling for records pertaining to order dated 26.09.2011 I.D.No.37 of 2010 on the file of the Central Government Industrial Tribunal – cum Labour Court and quash the same.

For Petitioner : Mr.S.Raveendiran,
Senior Counsel
for Mr.S.Bazeer Ahamed

For Respondent : Mr.K.M.Ramesh,
Senior Counsel.

ORDER

The claim of the petitioner is to call for the records pertaining to order dated 26.09.2011 I.D.No.37 of 2010 on the file of the Central Government Industrial Tribunal – cum Labour Court and quash the same.

2. The facts of the case in a nutshell:

The first respondent viz., K.Mookan joined the service of the petitioner/Bank as a part time sweeper cum waterman on 19.05.1986 at Sirupakkam Branch. When he was working as a messenger at the branch of



the bank, he was committed certain serious irregularities/misconduct, for which, he was issued charge sheet dated 16.11.2005 and enquiry was conducted by the petitioner/Bank and the same was contested by the first respondent/workman. In the domestic enquiry, the enquiry officer held that the Charge No.1, 3 as proved and Charge No.5, partly proved. The Disciplinary Authority after carefully going through the facts of the case and the findings of the enquiry officer has held that the charges as proved and imposed a punishment of discharge from the service with superannuation benefits in terms of clause 6(d) of the memorandum of settlement dated 10.04.2002.

2.1. The first respondent/workman preferred an appeal before the appellate authority. The appellate authority had concurred with the Disciplinary authority and had confirmed the penalty of discharge from service with superannuation benefits on 22.12.2008. Whereas, the first respondent/workman made a reference to the Central Government by raising an Industrial Dispute for adjudication of the dispute. The Central Government Ministry of Labour and Employment vide order No.L-



12012/28/2010-IR (B-1) dated 04.11.2010, referred the Industrial Dispute to the Tribunal for adjudication. The Central Government Industrial Tribunal by its order dated 28.11.2011 ordered reinstatement of the first respondent/workman into service forthwith with continuity of service but without backwages. Aggrieved by the same, the petitioner/Bank has come forward with the present writ petition.

3. Learned senior counsel for the petitioner submitted that there were totally 9 charges framed against the first respondent/workman, out of which 1 and 3 was held proved and 5 has partly proved. The disciplinary authority vide disciplinary proceedings dated 24.12.2007, imposed the punishment of discharge from service with superannuation benefits on the first respondent/workman. He further submitted that there is no reason to hold that the enquiry held is not fair and proper manner. The conclusion and the finding that the workman is guilty of the proved charges viz., 2-1/2 charges out of nine charges are also sound and proper and are not perverse as alleged. Therefore, the findings that the first respondent/workman is guilty is only to be upheld



WEB COPY

4. Learned counsel further submitted that the Tribunal extends to interfere in the punishment invoking Section-11A of the ID Act are:

(i) If and when the punishment is disproportionate to the gravity of the offence and

(ii) It also extends for any other good or valid reason as has been held by the Hon'ble Apex Court in a catena of decisions.

The first ground of a punishment being disproportionate to the gravity of the offence cannot be attracted to the given facts of the case concerning petitioner/workman, because the misconduct committed by him is serious, which cannot be met with lenient punishment.

5. Learned senior counsel further submitted that despite the above findings, the Tribunal considered the reduction in punishment on the ground that he had unblemished and good past record of service and he has appreciated for having mobilized deposits into the bank running into lakhs of rupees and moreover, he is hailing from a poor family with 3 children of



whom, one is physically handicapped. The person working in the bank should be a person of high integrity, since he is dealing with cash of the customer. He has also relied on the following judgments and the same is reads as follows:

(i) The Hon'ble Supreme Court in the case of Janatha Bazar (Southe Kanara Central Cooperative Wholesale Stores Ltd.) and others Vs. Secretary, Sahakari Noukarara Sangha and others, reported in (2000) 7 Supreme Court Cases 517.

(ii) The Hon'ble Supreme Court in the case of Union of India and Others Vs. Narain Singh, reported in (2002) 5 SCC 11.

(iii) The Hon'ble Supreme Court in the case of Regional Manager, Rajasthan State Road Transport Corporation Vs. Sohan Lal, reported in (2004) 8 SCC 218.

(iv) The Hon'ble Supreme Court in the case of United Bank of India Vs. Bachan Prasad Lall, reported in (2022) 4 SCC 358.

(v) The Hon'ble Supreme Court in the case of State of Punjab and others Vs. Ram Singh Ex-Constable, reported in (1992) 4 SCC 54.

(vi) The Hon'ble Supreme Court in the case of LIC of India Vs.



W.P.No.7857 of 2012

R.Dhandapani, reported in (2006) 13 SCC 613.

WEB COPY

6. Learned counsel appearing for the first respondent would submit that initially, the first respondent/workman was appointed as Sweeper cum waterman on 19.05.1986 at Sirupakkam Branch and later he has been converted to the post of Messenger by order dated 12.02.1992. There were totally nine charges framed against the first respondent/workman and disciplinary proceedings were initiated against him by issuing a charge sheet dated 16.11.2005, out of which, Charge Nos.1 and 3-proved and Charge No.5-partly proved. Subsequently, the disciplinary authority vide order dated 24.12.2007, discharged the first respondent/workman from service with superannuation benefits. Thereafter, appeal was also preferred before the Appellate Authority and the said appeal was also confirmed on 22.12.2008.

7. Learned senior counsel appearing for the first respondent further submitted that the dispute involved is one apt to be a dispute only between the workman and the customer and not *interse* the first respondent/workman



and the petitioner/bank. Moreover, the petitioner/Bank has issued an appreciation letter to the first respondent/workman for being instrumental in bringing deposits, amounting to lakhs into the bank during the year 1999 and 2000. It is pertinent to note that the first respondent/workman hails from a poor family and has 3 children and his second son is physically handicapped and the same is also not disputed by the petitioner/bank that the first respondent/workman has unblemishless and good passed record of service. Therefore, the Tribunal interfered with by modifying and reducing the punishment by ordering reinstatement of the workman into service forthwith with continuity of service but without backwages. Hence, he prays for dismissal of this writ petition.

8. The learned senior counsel appearing for the first respondent further drew the attention of this Court to the portion of the order passed by the Tribunal and the same is extracted hereunder:

“10. Now coming to the punishment, the question is whether the same is liable to be interfered with for any reason. The two grounds under which the scope of power of this Tribunal extends to interfere in



*the punishment invoking Section-11A of the ID Act are (i) if and when the punishment is disproportionate to the gravity of the offence and (ii) it also extends for any other good or valid reason as has been held by the Apex Court in a catena of decisions. **The first ground of a punishment being disproportionate to the gravity of the offence cannot be attracted to the given facts of the case concerning the workman because the misconduct proved committed by him is serious and which cannot be met with lenient punishment. He has committed fraud and misappropriated money to be remitted to the bank collected from customer for the purpose. This cannot be lightly viewed by the bank. Though there is no loss to the bank that is not a relevant consideration to impose lenient punishment. It is not only a misconduct but also the propensity to commit the grave misconduct like this, which is to be punished. So on the first ground petitioner cannot get lesser punishment than what is imposed. Then under next ground whether the petitioner is entitled to any reduced punishment falls for consideration. It is not disputed that petitioner has had unblemished and good past record of service. He has been appreciated for having mobilized deposits into the bank running into lakhs of rupees. He is shown to be hailing from***



a poor family with 3 children of whom one is physically handicapped. The misconduct on hand is the only instance of his single lapse from virtue by which on the spur of a moment he happened to be miscarried away to perpetrate the wrong doing which he has later made good. The concern of the bank is that by his act confidence on him has been reduced and he cannot be allowed to continue in service. Aimed at that the management has adopted, presumably a punishment of discharge from service with superannuation benefits so as to enable him to be entitled to the superannuation benefits which may include the pensionery claims as well instead of an outright dismissal from service which might entail in a capital punishment putting him in economic death. Discernibly, when the purpose of the management was to make him entitled to the receipt of pensionery benefits as well by punishing him by discharge with superannuation benefits it might have lost sight of the fact that he might not get pensionery benefits owing to his having not completed 50 years of age and having not rendered 20 years of service which together along qualify him for eligibility for pensionery benefits. Therefore, conceding to the arguments of the learned counsel for the petitioner I am led to hold that the



punishment could be interfered with by modifying and reducing the punishment appropriately. In the circumstances, it is deemed just and proper that there may be an order to reinstate him into service forthwith with continuity of service but without backwages. If he is reinstated pursuant to this direction, the Management will be at liberty to impose upon him a punishment of withholding of increments for five years without cumulative effect. Invoking this Tribunal's power to mould its own procedure and shape relief in the interest of justice also availing its power to interfere with the punishment for any other "good and valid reasons" other than the ground of proportionality alone even if the management knew well that petitioner would not get pension benefits while imposed the punishment as an extended impact of the punishment impugned herein viz., discharge with superannuation benefits it is ordered that the management will be at liberty to enforce the said punishment of discharge on any day or after at which the petitioner acquires for himself the prescribed qualifying service for eligibility of pension and also attains the prescribed minimum age for eligibility for pensionary benefits or the Management may allow to continue him in service until his normal



WEB COPY



W.P.No.7857 of 2012

superannuation age as it deems proper. Ordered accordingly.”

9. Learned senior counsel further relied on the judgment of the various High Court and the same is reads as follows:

(i) This Court in the case of National Carbon Company, Madras Vs. Labour Court, Madras and another, reported in 1987 (1) LNN 405.

(ii) This Court in the case of The Workmen, Employed in Engine Valves Ltd., Vs. The Management of Engine Valves Ltd., Madras, reported in 1983 (1) MLJ 427.

(iii) The Gujarat High Court in the case of R.M.Parmar Vs. Gujarat Electricity Board, Baroda, reported in 1982 LIC 1031.

10. Heard the learned counsel on either side and perused the materials available on record.

11. In this case, the charges framed against the first respondent/workman was grave in nature and it requires stringent



W.P.No.7857 of 2012

punishment. The first respondent/workman being an employee of the bank should be a person of high integrity and one of the charges i.e., Charge No.3 is that he has fraudulently withdrawn a sum of Rs.1200/- on 26.07.2007 from the savings bank account of Smt.Panjali by obtaining Left Thumb Impression of the depositor. The charge No.5, which is partly proved is that the first respondent/workman has remitted into the account of one Thangavelu aggregating a sum of Rs.1000/- on various dates and not by the borrower, only this part of the Charge No.5 is proved and rest of the part are not proved. In this case, the enquiry was conducted and based on the findings of the enquiry officer, the disciplinary authority vide proceedings dated 24.12.2007, imposed a punishment of discharge from service with superannuation benefits. The same was also challenged before the appellate authority and the same was also confirmed by the order passed by the disciplinary authority. The first respondent/workman preferred an Industrial Dispute before the second respondent/Tribunal and the Tribunal passed an

award dated 26.09.2011 in I.D.No.37 of 2010 and the relevant paragraphs are extracted hereunder:



“7. Heard both sides. Perused the records and documents. On behalf of the petitioner his learned counsel contended that the dispute involved is one apt to be a dispute only between the workman and the customer and not interest the workman and the bank. He was awarded the punishment of discharge from service with superannuation benefits. But he having had not completed 50 years of age and not rendered 20 years of service by then became disentitled to get his pensionary benefits. If the suspension period be treated as duty he would complete 50 years of age and if he be reinstated he will qualify for pension benefits. Ex.W.6 to Ex.W.8 are appreciation letters issued by the bank to the petitioner for being instrumental in bringing deposit amounting to lakhs into the bank during 1999 and 2000. He hails from a poor family. He has 3 children and a wife to support. His second son is a physically handicapped.

9. There is no reason to hold that the enquiry held is not fair and proper. The conclusion and the finding that the workman is guilty of the proved charges viz., 2-1/2 charges out of total 8 charges are also sound and proper and are not perverse as alleged. Therefore, the finding that the workman is guilty is only to be upheld and I do so.



10. Now coming to the punishment, the question is whether the same is liable to be interfered with for any reason. The two grounds under which the scope of power of this Tribunal extends to interfere in the punishment invoking Section-11A of the ID Act are (i) if and when the punishment is disproportionate to the gravity of the offence and (ii) it also extends for any other good or valid reason as has been held by the Apex Court in a catena of decisions. The first ground of a punishment being disproportionate to the gravity of the offence cannot be attracted to the given facts of the case concerning the workman because the misconduct proved committed by him is serious and which cannot be met with lenient punishment. He has committed fraud and misappropriated money to be remitted to the bank collected from customer for the purpose. This cannot be lightly viewed by the bank. Though there is no loss to the bank that is not a relevant consideration to impose lenient punishment. It is not only a misconduct but also the propensity to commit the grave misconduct like this, which is to be punished. So on the first ground petitioner cannot get lesser punishment than what is imposed. Then under next ground whether the petitioner is entitled to any reduced punishment falls for consideration. It is not



disputed that petitioner has had unblemished and good past record of service. He has been appreciated for having mobilized deposits into the bank running into lakhs of rupees. He is shown to be hailing from a poor family with 3 children of whom one is physically handicapped. The misconduct on hand is the only instance of his single lapse from virtue by which on the spur of a moment he happened to be miscarried away to perpetrate the wrong doing which he has later made good. The concern of the bank is that by his act confidence on him has been reduced and he cannot be allowed to continue in service. Aimed at that the management has adopted, presumably a punishment of discharge from service with superannuation benefits so as to enable him to be entitled to the superannuation benefits which may include the pensionary claims as well instead of an outright dismissal from service which might entail in a capital punishment putting him in economic death. Discernibly, when the purpose of the management was to make him entitled to the receipt of pensionary benefits as well by punishing him by discharge with superannuation benefits it might have lost sight of the fact that he might not get pensionary benefits owing to his having not completed 50 years of age and having



WEB COPY



W.P.No.7857 of 2012

not rendered 20 years of service which together along qualify him for eligibility for pensionary benefits. Therefore, conceding to the arguments of the learned counsel for the petitioner I am led to hold that the punishment could be interfered with by modifying and reducing the punishment appropriately. In the circumstances, it is deemed just and proper that there may be an order to reinstate him into service forthwith with continuity of service but without backwages. If he is reinstated pursuant to this direction, the Management will be at liberty to impose upon him a punishment of withholding of increments for five years without cumulative effect. Invoking this Tribunal's power to mould its own procedure and shape relief in the interest of justice also availing its power to interfere with the punishment for any other "good and valid reasons" other than the ground of proportionality alone even if the management knew well that petitioner would not get pension benefits while imposed the punishment as an extended impact of the punishment impugned herein viz., discharge with superannuation benefits it is ordered that the management will be at liberty to enforce the said punishment of discharge on any day or after at which the petitioner acquires for himself the prescribed



WEB COPY



W.P.No.7857 of 2012

qualifying service for eligibility of pension and also attains the prescribed minimum age for eligibility for pensionary benefits or the Management may allow to continue him in service until his normal superannuation age as it deems proper. Ordered accordingly.”

12. The Tribunal having come to the conclusion that there is no reason to held that the enquiry is not fair and proper and that the first respondent/workman and finding that the first respondent/workman is guilty to proved charges 2-1/2 charges out of the total 9 charges are also sound and proper and not perverse ought not to have passed the award granting reinstatement into service forthwith with continuity of service but without backwages on the ground of sympathy by taking into consideration that the first respondent/workman was hails from poor family and has three children on which one is physically handicapped. The tribunal has also taking into consideration the unblemished and good past record of service of the first respondent/workman which was also not disputed by the petitioner/bank for passing the above award of reinstatement by reducing the punishment.



WEB COPY

13. It is pertinent to extract the provision of Section 11-A of the Industrial Disputes Act, 1947 for better appreciates/understanding, which is extracted hereunder:-

“11.A. Powers of Labour Courts, Tribunals, and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen:

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and



shall not take any fresh evidence in relation to the matter.”

WEB COPY

14. The Tribunal ought not to have exercised its power under Section 11 A of the Industrial Disputes Act, 1947. However, the Tribunal's finding is as under:-

“(i) The Tribunal having come to the conclusion that the first ground of a punishment being disproportionate to the gravity of the offence cannot be attracted to the given facts of the case.

(ii) Having held as stated supra by the Tribunal the next ground whether the petitioner is entitled to any reduced punishment does not fall for consideration.”

15. It is relevant to look into the settled proposition of law in respect of the issues on hand:

(i) The Hon'ble Supreme Court in the case of Janatha Bazar (South Kanara Central Cooperative Wholesale Stores Ltd.) and others Vs. Secretary, Sahakari Noykarara Sangha and others, reported in (2000) 7 Supreme Court Cases 517, has held as under:-

“8. In the case of proved misappropriation,



in our view, there is no question of considering past record. It is the discretion of the employer to consider the same in appropriate cases, but the Labour Court cannot substitute the penalty imposed by the employer in such cases.”

(ii) The Hon'ble Supreme Court in the case of Union of India and Others Vs. Narain Singh, reported in (2002) 5 SCC 11, has held as under:-

“9. As seen above, the Division Bench notes that the charges against the respondent are proved and that the charges are of serious nature. Once the Court came to the conclusion that the charges were proved and that the charges were of a serious nature, it was not the function of the Court to interfere with the quantum of punishment. The Division Bench was wrong in holding that factors viz. (a) the person is coming from which place (b) his family background, and (c) his service record etc. were to be kept in mind. In our view, the Division Bench was also wrong in holding that if a poor person pleads guilty to the misconduct, then extreme penalty of dismissal is uncalled for. In our view a court must not lightly interfere



with sentences passed after a properly conducted enquiry where the guilt is proved. Reduction of sentence, particularly in military, paramilitary or police services can have a demoralising effect and would be a retrograde step so far as discipline of these services is concerned. In this case the charges being of a serious nature the penalty was commensurate with the charges. Further the Division Bench has itself noted that this was the third time the respondent was punished.”

(iii) The Hon'ble Supreme Court in the case of Regional Manager, Rajasthan State Road Transport Corporation Vs. Sohan Lal, reported in (2004) 8 SCC 218, has held as under:-

“10. We notice from the finding of the Industrial Tribunal that the respondent workman had indulged in misconduct which has not only led to monetary loss to the Corporation but the Corporation has also lost confidence in the said workman. Therefore, to continue such an employee in the employment of the Corporation by virtue of a judicial order, in our opinion, is an act of misplaced sympathy which can find no foundation in law or in equity. The finding that the workman has committed the misconduct in



question of not issuing tickets to passengers is a finding of fact arrived at by the Tribunal after taking into consideration the evidence recorded therein. This finding was affirmed by the learned Single Judge and the High Court has not set aside the finding. Therefore, the question of moulding the relief on the facts of this case did not arise at all. The offer of the respondent to forgo the back wages in lieu of his being reinstated is not an offer to be taken into consideration by the Court unless and until the finding of the Tribunal on misconduct was set aside and having perused the records including the order of the Tribunal, we are satisfied that this is not one of those cases in which there was room for setting aside such a finding.”

(iv) The Hon'ble Supreme Court in the case of United Bank of India

Vs. Bachan Prasad Lall, reported in (2022) 4 SCC 358, has held as under:-

“12. In our considered view, looking into seriousness of the nature of allegations levelled against the respondent employee, the punishment of dismissal inflicted upon him in no manner could be said to be shockingly disproportionate which would have required to be interfered with by the Tribunal in exercise of its power under Section 11-A of the 1947 Act. At the same time, merely because the employee stood superannuated



WEB COPY



W.P.No.7857 of 2012

in the meanwhile, will not absolve him from the misconduct which he had committed in discharge of his duties and looking into the nature of misconduct which he had committed, he was not entitled for any indulgence. The bank employee always holds the position of trust where honesty and integrity are the sine qua non but it would never be advisable to deal with such matters leniently.”

(v) The Hon'ble Supreme Court in the case of State of Punjab and others Vs. Ram Singh Ex-Constable, reported in (1992) 4 SCC 54, has held as under:-

“7. Rule 16.2(1) consists of two parts. The first part is referable to gravest acts of misconduct which entails awarding an order of dismissal. Undoubtedly there is distinction between gravest misconduct and grave misconduct. Before awarding an order of dismissal it shall be mandatory that dismissal order should be made only when there are gravest acts of misconduct, since it impinges upon the pensionary rights of the delinquent after putting long length of service. As stated the first part relates to gravest acts of misconduct. Under General Clauses Act singular includes plural, act includes acts. The contention that there must be plurality of acts of misconduct to award



dismissal is fastidious. The word "acts" would include singular "act" as well. It is not the repetition of the acts complained of but its quality, insidious effect and gravity of situation that ensues from the offending 'act'. The colour of the gravest act must be gathered from the surrounding or attending circumstances. Take for instance the delinquent who put in 29 years of continuous length of service and had unblemished record; in 30th year he commits defalcation of public money or fabricates false records to conceal misappropriation. He only committed once. Does it mean that he should not be inflicted with the punishment of dismissal but be allowed to continue in service for that year to enable him to get his full pension. The answer is obviously no. Therefore, a single act of corruption is sufficient to award an order of dismissal under the rule as gravest act of misconduct."

(vi) The Hon'ble Supreme Court in the case of LIC of India Vs.

R.Dhandapani, reported in (2006) 13 SCC 613, had held as under:

"7. It is not necessary to go into detail regarding the power exercisable under Section 11-A of the Act. The power under the said Section 11-A has to be exercised judiciously and the Industrial Tribunal or the



WEB COPY



W.P.No.7857 of 2012

Labour Court, as the case may be, is expected to interfere with the decision of the management under Section 11A of the Act only when it is satisfied that punishment imposed by the management is wholly and shockingly disproportionate to the degree of guilt of the workman concerned. To support its conclusion the Industrial Tribunal or the Labour Court, as the case may be, has to give reasons in support of its decision. The power has to be exercised judiciously and mere use of the words “disproportionate” or “grossly disproportionate” by itself will not be sufficient.

8. In recent times, there is an increasing evidence of this, perhaps well-meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and



misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability.

9. Though under Section 11-A, the Tribunal has the power to reduce the quantum of punishment it has to be done within the parameters of law. Possession of power is itself not sufficient; it has to be exercised in accordance with law.

10. The High Court found that the Industrial Tribunal had not indicated any reason to justify variations of the penalty imposed. Though learned Counsel for the respondent tried to justify the Award of the Tribunal and submitted that the Tribunal and the learned Single Judge have considered the case in its proper perspective, we do not find any substance in the plea. Industrial Tribunals and Labour Courts are not forums whose task is to dole out private benevolence to workmen found by the Labour Court/Tribunal to be guilty of misconduct. The Tribunal and the High Court, in this case, have found a pattern of defiance and proved misconduct on not one but on several occasions. The compassion which was shown by the Tribunal and unfortunately endorsed by



WEB COPY



W.P.No.7857 of 2012

the learned Single Judge was fully misplaced.

11. In the aforesaid background the Division Bench of the High Court was wholly unjustified in giving directions contained in para 20 of its order, having set aside the award of the Tribunal as affirmed by learned Single Judge. The High Court has not even indicated as to under what provision of law and/or statutory enactment or Regulation or Scheme, pension was payable to the respondent. On the contrary, the Pension Rules and the Scheme referred to above clearly justified the stand of the appellant that the respondent was not entitled to receive any pension or benefit under the scheme.

16. In view of the above factum of the case, finding of the Labour Court and the ratio laid down by *the Hon'ble Apex Court in (2000) 7 SCC 517, (2002) 5 SCC 11, (2004) 8 SCC 218, (2002) 4 SCC 358, (1992) 4 SCC 54, (2006) 13 SCC 613* as cited above, this Court is of the considered view that the Award is perverse, arbitrary and error apparent on the face of the record. The Award dated 26.09.2011 is liable to be quashed and the same is hereby quashed.



W.P.No.7857 of 2012

17. In the result, the writ petition is allowed. No costs.

13.04.2023

WEB COPY

vm

Index : Yes/No

Speaking Order : Yes/No

To:

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

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.7857 of 2012



WEB COPY



W.P.No.7857 of 2012

13.04.2023