



W.P.No.24496 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.24496 of 2016
and
W.M.P.No.20925 of 2016**

The General Manager,
Indian bank,
No.359, Dr.Nanjappa Road,
Coimbatore - 641 018.

... Petitioner

Vs.

1. The Presiding Officer,
Central Government Industrial Tribunal-cum-
Labour Court,
I Floor, 'B' Wing,
26, Haddows Road, Shastri Bhavan,
Chennai - 600 006.

2. S.Ayyappan

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarai, calling for the records relating to the award made in I.D.No.9 of 2012 dated 23.04.2014 on the file of the first respondent and quash the same.

For Petitioner : Mrs.Rita Chandrasekaran
for M/s.Aiyar and Dolia

For Respondents : Mr.P.K.Rajesh Praveen Kumar for
R2

ORDER

The impugned award in I.D.No.9 of 2012 dated 23.04.2014 passed by the first respondent is under challenge in the present Writ Petition.

2. The case of the petitioner is that the second respondent was working with the petitioner Bank and on complaint received and its alleged that misappropriation committed by the second respondent, he was placed under suspension on 10.11.2008. The charge sheet was issued and he was called upon to give explanation. On being dissatisfied with the



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explanation submitted by the second respondent, the departmental proceedings were initiated. There was a conflict between the findings of the Enquiry Officer and the Disciplinary Authority with regard to Charge Nos.1 and 3 and the second respondent was called upon to submit the explanation. Not satisfied with the same, the second respondent was imposed with a punishment of dismissal from service by the Disciplinary Authority on 05.04.2010, pursuant to which, the second respondent preferred an appeal before the Appellate Authority which was also dismissed. Hence, the second respondent / employee filed an Industrial Dispute under Section 2(A) of the Industrial Disputes Act, 1947 which was referred to conciliation and since it ended in failure, the dispute was referred to the first respondent. The first respondent took the matter in I.D.No.9 of 2012. On considering the statement of claim by the Union on behalf of the second respondent and the counter statement filed by the petitioner Management, the first respondent passed an award dated 23.04.2014 directing the petitioner Management to reinstate the second respondent in service within one month, but without backwages. Challenging the same, the present Writ Petition has been filed.



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3. The learned counsel appearing for the petitioner Management submitted that the first respondent ought to have taken into consideration the findings and the order passed by the Disciplinary Authority before allowing the dispute. She further submitted that the first respondent had not considered the relevant materials both oral and documentary evidence, wherein the Charge Nos.1 and 3 were found proved awarding the punishment imposed on the second respondent, namely, dismissal from service. She further submitted that in the matter of disciplinary proceedings, the Labour Court cannot sit as an Appellate Authority as over the Disciplinary Authority's order and the reappraise the evidence put forth before the enquiry forum. It is also to be noted that the first respondent ought to have taken into consideration that CBI / ACB cases pending against the second respondent and another charge sheet issued on 12.10.2009 has been kept in abeyance, in view of the punishment imposed with respect to the present enquiry and therefore, the first respondent ought not to have entertain the dispute and granted the relief of reinstatement. Hence, the learned counsel for the petitioner prays for indulgence of this Court in



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allowing the Writ Petition to set aside the award passed by the first respondent / Labour Court.

4. I have considered the said submissions made by the learned counsel appearing for the petitioner and have perused the materials placed before this Court.

5. It is brought to the notice of this Court that, pursuant to the order of dismissal passed by the petitioner Management which is the subject matter of the present Writ Petition, the second respondent was awarded the punishment of compulsory retirement in respect of another charge, against which, he filed an appeal, which is pending before the concerned Appellate Authority. By order dated 22.06.2018, the second respondent was imposed with a punishment of "Compulsory Retirement with Superannuation Benefits under Clause 6(c) of Memorandum of Settlement on Disciplinary Action and Procedure Therefor for Workmen dated, 10.04.2002." The period of suspension was treated as one on suspension only.



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6. In view of this development, the learned counsel for the second respondent has no objection for setting aside the impugned award as the subsequent charge was found to be proved and an order of compulsory retirement was passed by the petitioner Management on 22.06.2018.

7. The learned counsel for the second respondent submits that, pursuant to the order dated 22.06.2018, this Court may issue a direction to the petitioner Management to settle the superannuation benefits due to the second respondent as expeditiously as possible.

8. Considering the submissions on both sides and the recent development made vide order dated 22.06.2018 placing the second respondent under compulsory retirement with superannuation benefits, the impugned award passed by the first respondent dated 23.04.2014 is set aside and the petitioner Management is directed to settle the superannuation benefits due to the second respondent within a period of six weeks from the date of receipt of a copy of this order.



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9. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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