



W.P. No. 38201 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No. 38201 of 2016

A.Suresh Kumar

... Petitioner

-VS-

1. The Management
Superintendent Engineer,
Coimbatore Electricity Distribution Circle (South)
TNEB, Coimbatore.

2. The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records of the second respondent vide proceedings in ID.No.287/2005 dated 09.04.2013 and quash the same and consequently, direct the first respondent to reinstate the petitioner with all service benefits.

For Petitioner	:	Mr.R.Ganesh Kumar
For Respondents	:	R2-Court Mr.K.Rajkumar (R1)

O R D E R

The writ petition has been filed seeking to quash the impugned award in ID.No.287/2005 dated 09.04.2013 and consequently, direct the first respondent



W.P. No. 38201 of 2016

to reinstate the petitioner with all service benefits.

WEB COPY

2. The case of the petitioner is that he was appointed by the first respondent on 21.12.2001, as Trainee on compassionate grounds in the Group C cadre. The first respondent without providing any training posted the petitioner as bill collector but inspite of the same the petitioner was performing his duty with unblemished record. During general audit in the year 2003, it was found that a shortfall of Rs.1580/- and during review, it was found that Rs.36,437/- is shortfall from the petitioner. The first respondent subsequently issued showcause notice to the petitioner. However, the petitioner denied the allegations and also explained that other than the petitioner, other officers were handling the cash but without considering the explanation and without taking any action against the other officers, the first respondent placed the petitioner under suspension and disciplinary action was initiated against the petitioner alone. Without following due procedure, the first respondent completed the enquiry and vide order dated 04.02.2004 dismissed the petitioner. Challenging the dismissal order, the petitioner approached the second respondent for reinstatement into service with continuity of service with full back wages and other attendant benefits. Without considering the issues raised by the petitioner, the Labour Court dismissed the petition. Challenging the said order, the present



W.P. No. 38201 of 2016

petition has been filed.

WEB COPY

3. The learned counsel for the petitioner submitted that admittedly, there is a clear violation of the principle of natural justice while before passing the dismissal order. No opportunity was given to the petitioner and the Labour Court has mechanically passed a dismissal order without considering the grounds raised by the petitioner. Admittedly, the petitioner was appointed on compassionate ground as Trainee/Assessor. Without giving appropriate training to the petitioner, the first respondent posted in the electricity board and the petitioner committed the mistake inadvertently and collected lesser amount from the consumer, for which, a major punishment was imposed to the petitioner. Without considering the entire facts, the Labour Court dismissed the petition, which is not sustainable one.

4. Per contra, the learned counsel for the first respondent submitted that in fact, even on a bare perusal of the award, which makes it clear that the petitioner himself has admitted his guilt before the enquiry officer and the Labour Court and his written admission/explanation was marked as Ex.M4 and the same was properly considered by the Labour Court and rightly dismissed the petition, which cannot be interfered with.



W.P. No. 38201 of 2016

WEB COPY

5. The learned counsel further submitted that at the relevant point of time, the petitioner was in probation period and he collected lesser amount from the respective consumers, which could not be taken leniently. In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Division Bench of this Court in the case of ***Boloram Bordoloi Vs. Lakshmi Gaollia Bank and others reported in 2021 (3) SCC 806.*** Therefore, the learned counsel prays to dismiss the writ petition and confirm the impugned order passed by the second respondent.

6. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

7. The facts of the case are not in dispute. The petitioner joined as Trainee/Assessor in the year 2001 in the Tamil Nadu Electricity Board and during audit, it was found that there was shortfall of amount collected by the petitioner to the tune of Rs.42,784/-. Thereby, a show cause notice was issued to the petitioner, in which, he admitted his guilt and his explanation was marked as Ex.P4 before the Labour Court. On perusal of the said exhibit, which makes it clear that the petitioner himself admitted his guilt before the enquiry officer.



W.P. No. 38201 of 2016

When the petitioner himself has admitted his guilt, the same could not be taken leniently. Further, the learned counsel for the respondent submitted that a similar issue was came up for consideration before Hon'ble Supreme Court as stated supra and the relevant paragraphs are extracted hereunder:

11. We are of the view that the judgment of this Court in the case of Managing Director, ECIL, Hyderabad (supra) is not helpful to the case of the appellant. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the Enquiry Officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further C.A.No.4394 of 2010 elaborate reasons are required to be given by the disciplinary authority. As the departmental appeal was considered by the Board of Directors in the meeting held on 10.12.2005, the Board's decision is communicated vide order dated 21.12.2005 in Ref. No.LGB/I&V/Appeal/31/02/200506. In that view of the matter, we do not find any merit in the submission of the learned counsel for the appellant that orders impugned are devoid of reasons.

12. Even, the last submission of the learned counsel for the appellant that the punishment imposed is disproportionate to the gravity of charges, also cannot be accepted. The charges framed against the appellant in the departmental enquiry are serious and grave. If we look at the response, in his letter dated 16.08.2005, to the show cause notice issued by the disciplinary authority, it is clear



W.P. No. 38201 of 2016

that he has virtually admitted the charges, however, tried to explain that such lapses occurred due to work pressure. Further he went to the extent of saying – he is ready to bear the loss suffered by the bank on account of his lapses.

13. The manager of a bank plays a vital role in managing the affairs of C.A.No.4394 of 2010 the bank. A bank officer/employee deals with the public money. The nature of his work demands vigilance with the inbuilt requirement to act carefully. If an officer/employee of the bank is allowed to act beyond his authority, the discipline of the bank will disappear. When the procedural guidelines are issued for grant of loans, officers/employees are required to follow the same meticulously and any deviation will lead to erosion of public trust on the banks. If the manager of a bank indulges in such misconduct, which is evident from the charge memo dated 18.06.2004 and the findings of the enquiry officer, it indicates that such charges are grave and serious. In spite of proved misconduct on such serious charges, disciplinary authority itself was liberal in imposing the punishment of compulsory retirement. In that view of the matter, it cannot be said that the punishment imposed in the disciplinary proceedings on the appellant, is disproportionate to the gravity of charges. As such, this submission of the learned counsel for the appellant also cannot be accepted.

14. For the aforesaid reasons, this appeal is devoid of merit, same is dismissed with no order."

8. By applying the decision in the case of **Boloram Bordoloi** to the facts



W.P. No. 38201 of 2016

of the present case also, the petitioner himself has been admitted his guilt before the Enquiry Officer and therefore, the second respondent has rightly passed the order for confirming his termination and this Court has also no hesitation to accept the same and is not inclined to interfere with the order of the second respondent and the petitioner is not entitled to for any relief from the first respondent.

9. With the above observation, the writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is also closed.

18.07.2023

Rli

Index: Yes/No

NCS : Yes/No

To

1. The Management
Superintendent Engineer,
Coimbatore Electricity Distribution Circle (South)
TNEB, Coimbatore.

2. The Presiding Officer,
Labour Court,
Coimbatore.



WEB COPY



W.P. No. 38201 of 2016

M.DHANDAPANI, J.

Rli

W.P. No. 38201 of 2016

18.07.2023