



W.P.No.40887 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.40887 of 2016

And

W.M.P.No.34879 of 2016

Indian Bank
Rep. by General Manager (HRM)
Corporate Office,
264, Avvai Shanmugam Salai,
Royapettah,
Chennai – 600 014.

... Petitioner

Vs.

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

2.General Secretary
Indian Bank Employees Union,
6, Moore Street,
Mannady,
Chennai – 600 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records pertaining to the award dated 04.05.2016 passed in ID No.94 of 2015 on the file of the first respondent herein and quash the same.



W.P.No.40887 of 2016

For Petitioner : Mr.S.Kalyanaraman
for M/s.Aiyar and Dolia
For Respondents : Mr.K.M.Ramesh for R2
Senior Counsel
for M/s.S.Apunu

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for records pertaining to the award dated 04.05.2016 passed in ID No.94 of 2015 on the file of the first respondent and to quash the same.

2.The case of the petitioner is that one Sethu Subbiah was appointed as Peon on 19.04.1983 under SC Category and was promoted as Clerk / Shroff with effect from 07.08.1996. On verification of community certificate, it was found that he converted to Christianity and no longer enjoyed the SC status. Therefore, he was placed under cessation on attaining the age of 60 years on 31.08.2012. Thereafter, the second respondent Union raised industrial dispute in ID No.94 of 2015 before the first respondent and the first respondent passed the impugned award observing that there is no case for the Bank that Sethu Subbiah has committed misconduct in his entire career and that it is a case where the employee deserves some leniency on the part of the Bank and the Bank can invoke Section 31 of



W.P.No.40887 of 2016

the Bank Employees Pension Regulations, which provides for compassionate allowance for an employee who is dismissed, removed or terminated from service and that it is for the Bank to decide how much allowance can be paid to the employee. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that though the first respondent refused to grant the prayer sought for by the second respondent in the industrial dispute, the first respondent have no power to issue positive direction to the petitioner to disburse compassionate allowance in terms of Section 31 of the Bank Employees Pension Regulations to Sethu Subbiah.

4.The learned Senior Counsel appearing for the second respondent submitted that one Sethu Subbiah is member of the second respondent Union and he was placed under cessation on attaining the age of 60 years on 31.08.2012. Thereafter, the second respondent Union took up the case of the said individual before the first respondent by raising industrial dispute in ID No.94 of 2015 seeking to disburse all the terminal benefits to Sethu Subbiah. Though the first respondent refused to grant the prayer sought for by the



W.P.No.40887 of 2016

second respondent, issued direction to the petitioner to disburse compassionate allowance in terms of Section 31 of the Bank Employees Pension Regulations to Sethu Subbiah, which cannot be interfered with.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. The facts in the present case is not in dispute. Admittedly, one Sethu Subbiah who is a member of the second respondent Union entered the service as Peon on 19.04.1983 under SC Category and was promoted as Clerk / Shroff with effect from 07.08.1996. However, on verification of community certificate, it was found that he converted to Christianity. Therefore, he was placed under cessation on attaining the age of 60 years on 31.08.2012. Thereafter, the second respondent Union raised industrial dispute in ID No.94 of 2015 before the first respondent.

7. The question that arises for consideration in this writ petition is that whether the first respondent have power to issue direction to the petitioner to disburse compassionate allowance in terms of Section 31



W.P.No.40887 of 2016

of the Bank Employees Pension Regulations to Sethu Subbiah?

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8. Admittedly, the first respondent have power to decide the issue only in terms of Sections 2(A) 2 and 11 of the Industrial Disputes Act and the first respondent have no power to issue direction to the petitioner to disburse compassionate allowance in terms of Section 31 of the Bank Employees Pension Regulations to Sethu Subbiah. It is for the petitioner to decide the issue independently.

9. In view of the above, the award dated 04.05.2016 passed by the first respondent in ID No.94 of 2015 is modified as follows:

(i) The petitioner is directed to consider the claim of the second respondent for providing compassionate allowance to Sethu Subbiah, within a period of four weeks from the date of receipt of a copy of this order.

10. The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

12.07.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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W.P.No.40887 of 2016

M.DHANDAPANI,J.
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To

- 1.The Presiding Officer,
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