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W.P.No.20880 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.20880 of 2017

and

W.M.P.Nos.21752 of 2017 and 34921 & 34922 of 2018

Indian Overseas Bank,
Rep. by its Chief Manager,
CDAC Department,
763, Anna Salai,
Chennai – 600 002.
Petitioner

...

Vs.

1.The Central Government Industrial
Tribunal cum Labour Court,
rep. by its Presiding Officer, Shastri Bhavan,
Haddows Road, Chennai – 600 006.

2.P.Raju

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in preliminary order dated 27.01.2016 and the final award dated 21.04.2017 in I.D.No.57 of 2015 of the 1st respondent and quash the same.

For Petitioner : Mr.K.Srinivasamurthy

For Respondents : Labour Court [R1]



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Mr.T.Ram Kumar [R2]

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ORDER

Challenging the Award, dated 27.01.2016 in I.D.No.57 of 2015 passed by the first respondent Labour Court, the petitioner bank has come forward with the present Writ Petition.

2. The brief facts which led to the filing of the present Writ Petition can be stated as under:

(i) While the second respondent was working as Special Assistant in the petitioner Bank at Abiramapuram Branch, a charge sheet dated 09.07.2013 was issued to him, alleging that he was a party to one A.Thomas Balan, Regional Secretary of All India Overseas Bank Employees Union (AIOBEU) and one S.Muthuraj, Regional Committee Member of AIOBEU in Tuticorin Branch of the respondent bank for receiving the bribe amount to the tune of Rs.2.5 lakhs from one K.Vellaichamy for getting him a bogus certificate in order to get a job of Permanent Messenger in the petitioner bank.

(ii) According to the petitioner bank, on the instructions given by Muthuraj, the said K.Vellaichamy had deposited Rs.1.5 lakhs into the



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account of the second respondent and it is a bribe amount and this fact was well aware by the second respondent and in order to facilitate Muthuraj and Thomas Balan to collect the bribe amount from Vellaichamy, he gave his SB account and got credited the amount in his account and later, he transferred the same to the account of the daughter of Muthuraj. It appears that the the petitioner bank, after conducting the enquiry, vide proceedings dated 03.05.2014, dismissed the second respondent from service. Aggrieved by the same, the second respondent raised an industrial dispute, which was adjudicated by the first respondent Labour Court by Award dated 27.01.2016, wherein, while setting aside the dismissal order, directed the petitioner bank to reinstate the second respondent in service with entire backwages and attendant benefits. Hence, the Writ Petition.

3. The learned counsel appearing for the petitioner bank would contend that, the Labour Court has not properly considered the evidence, particularly circumstantial evidence available on record properly, which clearly established the fact that, the second respondent was a facilitator, since he helped his colleague Muthuraj by giving his account details to Vellaichamy and getting credited the bribe amount in his account and later transferred to



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the account of daughter of Muthuraj. Therefore, the learned counsel would contend that, the Award is liable to be set aside.

4. On the other hand, the learned counsel appearing for the second respondent would submit that, the Labour Court has dealt with the evidence in proper perspective and rightly come to the conclusion that the petitioner bank has failed to prove the factum that it was the bribe amount that was remitted to the account of the second respondent with his knowledge. He would, therefore, submit that there is absolute no infirmity in the award passed by the Labour Court and hence, the Writ Petition is liable to be dismissed.

5. Heard the learned counsel for both parties and perused the entire materials placed on record.

6. The charge against the second respondent was that he allowed the remittance of Rs.1.5 lakhs in his account with the knowledge that it was the bribe amount, which was directed to be deposited by Vellaichamy on the instructions of Muthuraj and Thomas Balan and after receipt of the amount,



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he transferred the same to the account of the daughter of Muthuraj and thereby, the second respondent was a party to the misdeeds committed by Muthuraj and Thomas Balan and he cleverly executed the plot made by Muthuraj and Thomas Balan and he facilitated them to get the bribe amount. While, according to the second respondent, he was not aware that it was the bribe amount till he was issued with charge memo, but he had given his bank details to Vallaichamy at the instance of Muthuraj as a good gesture and later he transferred the same to the account of daughter of Muthuraj and he had nothing to do with any amount or plot alleged to have been made by Muthuraj for the purpose getting bribe amount.

7. On a perusal of the entire evidence, in fact, this Court does not find any clinching material to show that the second respondent was well aware of the fact that it was a bribe amount and only in order to facilitate Muthuraj and Thomas Balan, he received the same. Though the petitioner bank examined Vallaichamy, who deposed that he deposited the amount into the account of the second respondent on instructions given by Muthuraj and Thomas Balan, but this alone is not sufficient to hold that the second respondent was well aware of the fact that it was a bribe amount and



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Vellaichamy had not deposed to the effect that he informed the second respondent to deposit the amount, which was a bribe offered by him to Muthuraj and Thomas Balan for getting a job. The Labour Court has minutely dealt with the evidence placed on record and rightly come to the conclusion that there is absolutely no evidence to the effect that the second respondent was aware of the fact that it was a bribe amount and he acted as a facilitator. However, it is well settled law that in departmental enquiry, preponderance of probabilities indicates that if there are reasonable grounds leading to an inference that misconduct was committed, it would be sufficient for initiation of disciplinary proceedings against delinquent official, although evidence may not be required as that of criminal case and need not prove beyond reasonable doubt. If this is applied to the present case, this Court is of the view that since the second respondent has not enquired properly with Vellaichamy when he contacted him to furnish his bank account for depositing the amount in his account or it is not the case of the second respondent that he was intimated by Muthuraj that one Vellaichamy is going to deposit the amount in his account for good cause or towards clearance of any debt. Therefore, this Court is not inclined to give clean chit to the second respondent. However, the punishment of dismissal inflicted against the



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second respondent, in the opinion of this Court is, disproportionate to the charge levelled against the second respondent. Hence, this Court is inclined to modify the punishment of dismissal from service into one stoppage of increment of two years with cumulative effect.

8. Accordingly, this Writ Petition is partly allowed. The punishment of dismissal from service is modified to that of stoppage of increment for a period of two years with cumulative effect. The petitioner bank is directed to reinstate the second respondent by imposing the punishment now modified, within a period of four (4) weeks from the date of receipt of a copy of this order. The second respondent is entitled for continuity of service and backwages from the date of dismissal till the date of reinstatement. No costs. Consequently, the connected miscellaneous petitions are closed.

16.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To
The Presiding Officer,
Central Government Industrial Tribunal cum Labour Court,
Shastri Bhavan, Haddows Road, Chennai – 600 006.



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M.DHANDAPANI, J.

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