



WEB COPY



WP.No.15749 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P No.15749 of 2017

M.Sathishkumar

...Petitioner

Vs

1.The General Manager,
Indian Overseas Bank,
762, Anna Salai,
Chennai 600 002.

2.The Central Govt Industrial Tribunal,
Shastry Bhavan, Haddows Road,
Nungambakkam,
Chennai 600006.

...Respondents

PRAYER : Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus or any other Writ of like or any other nature calling for records pertaining to the Award in I.d.No.112 of 2014, dated 15.06.2016 of the 2nd respondent and the termination order no.Order IRD/184/32/2014-15 dated 02.05.2014 of the 1st respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with all consequential benefits including back wages from the date of termination till the date of reinstatement.

For Petitioner : Mr.R.Ramesh



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ORDER

Aggrieved by the impugned Award in I.D.No.112 of 2014, the petitioner is before this Court.

2. The facts leading to filing of this case are stated as follows :

It is the case of the petitioner that he joined Oppillan Branch of the 1st Respondent bank as a temporary Messenger on 05.08.2005 and had rendered continuous service upto 09.02.2010. Thereafter, he was posted to Kamudi Branch wherein he served for the period from 10.02.2010 to 27.09.2011. He was again posted to Oppillan Branch, wherein he worked for the period from 28.09.2011 to 28.06.2012. However, on 02.05.2014, he was terminated from the services of the 1st respondent bank alleging that the petitioner never worked as a temporary messenger in Oppillan Branch. Aggrieved by which, he raised a dispute before the Conciliation Officer. Since, the conciliation proceedings ended in failure, the 2nd respondent raised an industrial dispute under Section 2A of the ID Act as against his termination, by raising a dispute in I.D.No.112 of 2014 before the Central



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Government, Industrial Tribunal cum Labour Court, which was dismissed on the ground that the workman did not establish his claim with regard to the continuous service in the management. Challenging the same, the 2nd respondent has filed this Writ Petition.

3. Learned counsel for the petitioner would submit that as per the 12(3) settlement entered into between the petitioner and the respondent bank on 17.02.2011, for the purpose of absorption to the post of messenger in the respondent bank, the petitioner had produced a certificate of experience stating to have completed more than 240 days of continuous service in Oppillan and Kamudi Branch. However, without issuing any prior notice, on 02.05.2014, he was issued with the termination order alleging that on verification it was found that the workman had never worked as temporary messenger in the said branches. For the alleged misconduct, the petitioner was neither issued with a charge memo, nor the departmental enquiry was conducted which clearly shows that the petitioner was not given an opportunity to put forth his case. Hence, the findings rendered by the Labour Court in confirming the said terminated is perverse and



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accordingly, the same is liable to be set aside.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. Admittedly, there was a 12(3) settlement entered into between the petitioner and the respondent Bank, pursuant to which, for the purpose of absorption to the post of messenger, the petitioner had produced a certificate of experience stating that he has rendered more 240 days of continuous service in two branches of the respondent bank prior to 15.10.2011. The bank authorities, on verification, having found that the petitioner has not rendered 240 days of continuous service as claimed in his experience certificate and that he is not eligible for the post of messenger, had terminated the petitioner from service.

6. It is seen from the impugned Award as also the other materials placed on record that the Labour Court has properly appreciated all the oral and documentary evidences while rejecting the claim of the petitioner.



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Further, it is seen that the petitioner has not placed any documentary evidence before the Labour Court in order to establish that he has completed 240 days of continuous service in the said branches and the certificate produced by him was found to be not genuine one. Further, the bogus nature of the experience certificate has been established by the respondent bank in the enquiry proceedings. In the absence of any other material, this Court cannot take a contrary view with regard to the certificate and the issue being properly adjudicated by the Labour Court, this Court, under Article 226 is not inclined to conduct a roving enquiry, when the authenticity of the certificate has been established to be bogus in the manner known to law and, therefore, the award passed by the Labour Court does not suffer any vice of illegality and the same needs no interference.

7. For the reasons aforesaid, this Writ Petition is devoid on merits and the same stands dismissed accordingly. There shall be no order as to costs.

04.09.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
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To

The Central Govt Industrial Tribunal,
Shastry Bhavan, Haddows Road,
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