



WEB COPY



W.P.No.28933 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28933 of 2017

And

W.M.P.Nos.31156 and 31157 of 2017

Indian Overseas Bank
Rep. by its General Manager,
Human Resources Management Department (HRMD),
Regional Office,
762, 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.J.Ravikumar

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari after calling for the records Award dated 18.07.2017 in ID.No.125 of 2015 of the first respondent and quash the same.



WEB COPY



W.P.No.28933 of 2017

For Petitioner : Mr.N.G.R.Prasad

For Respondents : Mr.J.Madana Gopal Rao for R1
Mr.T.Ram Kumar for R2

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari after calling for the records Award dated 18.07.2017 in ID.No.125 of 2015 of the first respondent and quash the same.

2.The case of the petitioner is that the second respondent was working as temporary messenger with the petitioner bank and since he had filed false experience certificate, he was terminated from service vide order dated 20.05.2014. Hence, he raised industrial dispute before the first respondent and the first respondent passed award directing the petitioner to reinstate the second respondent in service with 75% backwages and all other attendant benefits. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner Bank entered into a settlement under Section 12 (3)



W.P.No.28933 of 2017

WEB COPY

of the Industrial Disputes Act, 1947 with recognized union for absorption of temporary messengers who had put in 240 days of service during a period of 12 calendar months prior to 15.11.2010. The second respondent in the undertaking letter dated 28.04.2011 gave a declaration to the effect that after his absorption, if it is found that the declaration made by him is false, his services could be terminated. Similarly in his application form dated 23.12.2011 he had made declaration to the effect that the information and particulars given by him are true and if it is found false his appointment could be terminated without notice or compensation.

4.The learned counsel appearing for the petitioner further submitted that since the certificate produced by him relating to his experience with the Bank was found to be false, he was terminated from service. A demand draft dated 20.05.2014 for a sum of Rs.13,859.71 being one month's pay and allowance in lieu of the notice period was enclosed as per the terms of appointment order, however, the first respondent without considering all these aspects passed the impugned award directing the petitioner to reinstate the



W.P.No.28933 of 2017

WEB COPY

second respondent in service with 75% backwages and all other attendant benefits, which is not sustainable one.

5.Per contra, the learned counsel appearing for the second respondent submitted that the second respondent was working as temporary messenger at Kumbakonam Court Branch from 20.02.1999 to 06.07.2002 for 288 days and at Tirubhuvanam Branch from 02.03.2007 to 31.12.2010 for 1126 days without any break in permanent vacancy and thereafter at Pookollai Branch from 04.01.2011 till he was made permanent on 23.12.2011.

6.The learned counsel appearing for the second respondent further submitted that considering the service of the second respondent as temporary messenger in permanent vacancies, he was called on 28.11.2011 to attend the interview at Regional Office of Indian Overseas Bank, Thanjavur on 01.12.2011 and considering his performance at the interview held on 01.12.2011, the petitioner took the second respondent as permanent sub-staff with effect from 23.12.2011.



W.P.No.28933 of 2017

WEB COPY

7.The learned counsel appearing for the second respondent further submitted that the second respondent sent letter to the Investigating Officer of the Bank for illegal demand made by the union leader on 28.09.2013 and CBI registered FIR on 21.03.2014 and sent letter to Bank asking petitioner's employment details on 11.04.2014 and the Senior Manager, Tirubhuvanam Branch sent letter to the Investigating officer that the second respondent did not work in the Branch, on 05.05.2014 and inorder to wreck vengeance, the second respondent was terminated from service. Aggrieved by the termination order, the second respondent raised industrial dispute before the first respondent and the first respondent after considering the factual aspects passed award in favour of the second respondent, directing the petitioner to reinstate the second respondent in service with 75% backwages and all other attendant benefits.

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

9.Admittedly, the second respondent was working as temporary messenger in three different branches of the petitioner Bank in



W.P.No.28933 of 2017

permanent vacancies. Thereafter as per the settlement under Section 12 (3) of the Industrial Disputes Act, 1947 entered into by the petitioner with the recognized union, the second respondent was called to attend the interview at Regional Office of Indian Overseas Bank, Thanjavur on 01.12.2011 and considering his performance at the interview the petitioner took the second respondent as permanent sub-staff with effect from 23.12.2011.

10.It is alleged that the second respondent sent letter to the Investigating Officer of the Bank for the illegal demand made by the union leader on 28.09.2013 and CBI registered FIR on 21.03.2014 and sent letter to Bank asking petitioner's employment details on 11.04.2014 and the Senior Manager, Tirubhuvanam Branch sent letter to the Investigating officer stating that the second respondent did not work in the Branch on 05.05.2014 and inorder to wreck vengeance, the second respondent was terminated from service.

11.However, perusal of records reveal that without issuing any charge memo and without conducting enquiry, the second respondent has been terminated from service on the ground that he had filed false experience certificate. Hence, the impugned award does not



W.P.No.28933 of 2017

suffer perversity and warrants no interference.

WEB COPY

12.The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

10.08.2023

pri

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

To

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



WEB COPY



W.P.No.28933 of 2017

M.DHANDAPANI,J.
pri

W.P.No.28933 of 2017
And
W.M.P.Nos.31156 and
31157 of 2017

10.08.2023



WEB COPY



W.P.No.28933 of 2017