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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17715 of 2020

and

WMP(MD)No.14808 of 2020

1.DBs Bank India Limited,
Rep.by its Managing Director,
Registered Office at Express Towers,
18th Floor, Nariman Point,
Mumbai – 400 021,
Maharashtra State, India

2.Disciplinary Authority,
Registered Office at Express Towers,
18th Floor, Nariman Point,
Mumbai – 400 021, Maharashtra State, India

... Petitioners

(Petitioners are substituted vide court order
dated 14.03.2023 in WMP(MD)No.3032 of 2021)

Vs.

1.Joint Commissioner of Labour,
Appellate Authority under the Tamil Nadu,
Shops and Establishments Act, Dindigul.

2.Kumanan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the first respondent and quash its order dated 05.11.2019 in TNSE Appeal No.4 of 2016.

For Petitioner : Mr.Anand Gopalan for
Mr.T.S.Gopalan and Co

For Respondents : Mr.G.Suriyananth,
Additional Government Pleader for R1

Mr.R.G.Shankar Ganesh for R2

ORDER

Heard the learned counsel on either side.

2.The second respondent joined the petitioner bank as sub-staff in the year 1980. He became Manager in the year 2010. The management charged the second respondent with acts of misconduct in the matter of granting loans between April 2009 and July 2011. Charge memo was issued on 03.11.2012 and the enquiry officer reported adverse findings against the official. Concurring with the said findings, the management dismissed the



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second respondent from service on 18.07.2013. Questioning the same, the second respondent filed an appeal before the appellate authority under the Tamil Nadu Shops and Establishments Act, 1947. There was delay in filing the appeal and it was condoned. After hearing both the parties, by the impugned order dated 05.11.2019, the appellate authority set aside the order passed by the disciplinary authority and ordered the reinstatement of the employee with back wages and continuity of service. Questioning the same, this writ petition has been filed.

3.The impugned order no doubt runs to 22 pages. Pages 1 to 15 are mere reflection of the antecedent developments. The discussion part is found in pages 16 to 18. I carefully went through the said portions. Even though the management had examined three witnesses on their side and marked many documents and the second respondent also examined himself and marked 42 documents, the appellate authority had not dealt with any of them. He had abruptly and summarily concluded that the charges framed against the second respondent have not been established. The impugned order has to be necessarily characterized as a non-speaking order.



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4. In this view of the matter, the order impugned in this writ petition is set aside. The matter is remitted to the file of the first respondent. The parties agree to appear before the appellate authority on 31.03.2023 at 03.00 P.M. The first respondent shall hear both the parties on the said date or on any other adjourned date and pass order afresh on merits and in accordance with law on or before 26.05.2023. Copy of the same shall be immediately served thereafter. The first respondent is necessarily obliged to pass a speaking order by dealing with the contentions of both the parties. It is open to the second respondent to adduce any additional material. I have not gone into the merits of the matter. I interfered with the impugned order only because it is non-speaking in nature.

5. This writ petition is allowed. No costs. Connected miscellaneous petition is allowed.

14.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SKM

Issue order on 17.03.2023



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To

1. Joint Commissioner of Labour,
Appellate Authority under the Tamil Nadu,
Shops and Establishments Act, Dindigul.



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G.R.SWAMINATHAN, J.

SKM

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14.03.2023