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W.A.No.2805 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2805 of 2024

N.M.Sundaram

... Appellant

Vs.

1.The Special Officer,
Aravenu Primary Agricultural
Co-operative Bank Ltd.,
Aravenu, Kotagiri Taluk,

2.The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent for issuance of a Writ of Certiorari Mandamus, praying to set aside the order passed in W.P.No.23432 of 2014 dated 22.08.2019.

For Appellant : Mr.V.Sivakumar

For Respondents : Mr.C.Selvaraj
Additional Government Pleader
for R1

R2 - Labour Court



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JUDGEMENT

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(Judgement of this Court was delivered by M.S.RAMESH.J)

The appellant, while serving as an Office Assistant in the respondent / Bank, was levelled with three charges under a charge memo dated 17.09.2004. During the enquiry, two out of the three charges were held as proved. Consequently, the disciplinary authority had imposed the punishment of dismissal from service through an order dated 05.05.2005.

2. When the appellant had challenged the order of punishment by raising an industrial dispute in I.D.No.245 of 2007 before the Labour Court, Coimbatore, the Labour Court had held that the domestic enquiry conducted against the appellant was fair and proper, through its preliminary award dated 14.05.2010. Thereafter, on the strength of the evidences and other materials on record, the Labour Court had passed a final award dated 11.02.2013, by modifying the punishment of dismissal into one of stoppage of one increment with cumulative effect, with a direction to reinstate the appellant into service with 20% back wages and continuity of service. Pursuant to the final award, the appellant was reinstated back into services by the first respondent on 01.07.2013. After



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about one year, the appellant had challenged both the preliminary award, as well as the final award dated, insofar as the first respondent denies full back wages, before a learned Single Judge of this Court through W.P.No.23432 of 2014, which was dismissed on 22.08.2019. The said order of dismissal is under challenge in the present appeal.

3. Learned counsel for the appellant submitted that the charges levelled were vague and no due opportunity was extended to the appellant during the course of enquiry, which aspect was not considered by the Labour Court and therefore, the order of the learned Single Judge in the Writ Petition suffers from perversity.

4. Per contra, Mr.C.Selvaraj, learned Additional Government Pleader appearing for the first respondent / Bank submitted that the enquiry was conducted after giving due opportunity to the appellant and there was no violation of principles of natural justice. He also submitted that though the Labour Court had modified the punishment and ordered for reinstatement, the bank has not challenged the award but had reinstated the appellant back into services. Since two charges out of the three have been proved



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against the appellant, the Labour Court was justified in restricting the back wages at 20%. He also brought to the notice of this Court that the appellant was reinstated back into service on 01.07.2013, after the award and had also superannuated from service on 31.08.2014.

5. On the strength of the enquiry report holding two charges as proved, the disciplinary authority had imposed maximum punishment of dismissal from service. However, the Labour Court had analysed the two proven charges levelled against the appellant and had come to the conclusion that they were not so serious in nature so as to warrant the maximum punishment. It had also taken into account that the appellant had put in 24 years of service and was at the verge of retirement and accordingly had modified the punishment to a lesser one and restricted the back wages at 20%. The Labour Court was well within its powers under Section 11A of the Industrial Disputes Act, 1947, to modify the punishment, as well as in restricting the back wages. We also find that such a decision has been arrived at on the strength of the materials available on the record.



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6. The learned Single Judge had also endorsed the views of the Labour Court both in its preliminary award, as well as the final award and had come to the conclusion that there was no perversity in them.

7. In view of the above, no grounds were substantiated before the learned Single Judge so as to warrant interference. In our view, the learned Single Judge had rightly rejected the claim of the appellant through the order of dismissal of the Writ Petition. Thus, there are no merits in the grounds raised by the appellant in this appeal. Accordingly, this appeal stands dismissed. No Costs.

[M.S.R., J] [C.K., J]

30.09.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

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Co-operative Bank Ltd.,
Aravenu, Kotagiri Taluk,



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

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2.The Presiding Officer,
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