



W.P.No.5956 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.5956 of 2015

&

M.P.No.1 of 2015

V.Vinothkumar

...Petitioner

Vs.

1.Vice President (HR),
Unit Trust of India Bank (UTI Bank),
82 Dr.Radhakrishnan Salai,
Chennai – 600004.

2.Axis Bank Authorised Signatory,
Southern Region, Axis Bank Ltd.,
82 Dr.Radhakrishnan Salai,
Chennai – 600004.

...Respondents

Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of termination of service passed by the 2nd respondent



W.P.No.5956 of 2015

herein in HR/TERMINATION/17471/2014-15 dated 11.12.2014,
quash the same as illegal and direct the respondents herein to reinstate
the petitioner with all back wages, continuity of service and all other
attendant benefits.

For Petitioner : M/s.Vijayakumari Natarajan.

For Respondents : Mr. R.D.Ashok
1 & 2. For Mr. K.Rajasekaran

ORDER

Challenging his dismissal from the respondent Bank, the
petitioner has moved this Court. The main grievance of the petitioner
is that he had put in 7 years of dedicated service and had been
terminated without giving any reasons by the impugned letter dated
11.12.2014.

2. The petitioner would submit that he has no alternative remedy
and that it is only this Court under Article 226 of the Constitution of



W.P.No.5956 of 2015

India that could redress his grievance. The impugned order suffers from arbitrariness and failure to follow the principles of natural justice and fair play. The petitioner would submit that the right to life is a fundamental right. Therefore, he has filed the above Writ Petition.

3. The respondents had filed a counter affidavit inter alia contending that the Writ Petition is totally misconceived as the respondent Bank is not amenable to the Writ Jurisdiction. As regards the termination, it is the contention of the respondents that as per clause 3.5 of the Bank Staff Rules, an employee can be terminated without assigning any reasons and by giving month's notice or salary in lieu. The petitioner was terminated with effect from 11.12.2014 and the salary in lieu of notice period has been paid to him along with the eligible salary in December 2014. He was also paid Gratuity, PL Encashment, F & F settlement and PF by crediting the same in his savings Bank Account. The petitioner after accepting the above without any demur has now approached this Court by filing the instant Writ Petition. Therefore, they would pray that the said Writ Petition



W.P.No.5956 of 2015

may be dismissed.

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4. M/s. Vijayakumari Natarajan, learned counsel appearing on behalf of the petitioner would submit that the right to life is a fundamental right enshrined in Article 21 of the Constitution of India and its violation gives a right to the person whose right has been affected to move this Court by invoking provisions of Article 226 of the Constitution of India.

5. She would rely upon the Judgement of the Hon'ble Supreme Court reported in *1989 (2) SCC 691 – Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanthi Mahotsav Smarak Trust and Others Vs. V.T.Rudani and others*, where the Hon'ble Supreme Court has held that there is no limitation for the High Court to issue a Writ in the nature of mandamus. Article 226 confers wide powers on the High Courts to issue Writs in the nature of prerogative Writs and it can be issued against any persons or authority. The said Judgement has also observed that Article 226 confers power on the High Court to issue



W.P.No.5956 of 2015

Writs not only for enforcing fundamental rights but also non-fundamental rights. What has to be considered is the duty that is imposed on the body.

6. She would submit that the petitioner has been terminated without giving him any opportunity to show cause against the termination. The termination has been made effective on the date on which the order has been passed by giving a month's salary to the petitioner.

7. Per contra, Mr. R.D.Ashok, learned counsel appearing on behalf of the respondents would submit that the relationship between the petitioner and the respondent Bank is purely a contractual relationship. That apart, the Bank has been described as a Private Sector Bank by the Reserve Bank of India. Therefore, the Writ Petition would not lie against the respondent Bank. Further, the termination has been done in keeping with the agreement between the petitioner and the respondent Bank and the petitioner has also received the terminal



W.P.No.5956 of 2013

benefits due to him without protest.

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8. Heard the learned counsels and perused the records.

9. The respondent Bank is a Private Sector Bank as described by the Reserve Bank of India and does not fall within the meaning of State as envisaged under Article 12 of the Constitution of India. Though the respondent Bank is discharging the public duty and if any action taken by them which is detrimental to the discharge of its duty a Writ Petition is definitely amenable. In the Judgement of the Hon'ble Supreme Court reported in **2023 (4) SCC 498 – St.Mary's Education Society and Another Vs. Rajendra Prasad Bhargava and other**, the learned Judges have observed as follows:

“While such of those functions as would fall within the domain of a “public function” or “public duty” be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of



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W.P.No.5956 of 2015

service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.”

In the instant case also the grievance of the petitioner with reference to his employment is purely contractual. Therefore, applying the above ratio, the Writ is not maintainable.

10. The petitioner had signed a declaration letter dated 10.08.2007 in which he has declared that he has read and understood Bank Staff Rules, 1994 and that he would be bound by the said Rules. Clause 3.5 of the said Rule reads as follows:

“3.5. Termination:

Notwithstanding what is provided in these Rules, the services of any employee in the Bank can be terminated by the Bank by giving one month's notice or salary in lieu



W.P.No.5956 of 2013

thereof without assigning any reasons therefor.”

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11. It is an admitted fact that the petitioner has been given a month's salary in lieu of the notice period. That apart, the petitioner has also received terminal benefits without protest. Therefore, the Writ Petition apart from not being maintainable is also dismissed on the ground that the petitioner having agreed to have his service terminated either by issue of month's notice or by receiving month's salary in lieu of the notice period cannot now turn around and question his termination.

12. In the result, the Writ Petition is dismissed. It is well open to the petitioner to challenge his termination in the manner known to law. Consequently, the connected miscellaneous petition is closed. No costs.

22.07.2024

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W.P.No.5956 of 2015

P.T. ASHA, J,

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W.P.No. 5956 of 2015

22.07.2024