



WEB COPY



W.A.No.1667 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

W.A.No.1667 of 2024

The Management of Indian Bank,
Personnel Dept.
Head Office No.66, Rajaji Salai, Chennai 600001
presently shifted to II Floor,
HRM Department,
254-260 Avvai Shanmugam Salai
Royapettah, Chennai 600 014
rep.by its Assistant General Manager

... Appellant

Vs.

1.The Presiding Officer,
Central Government Industrial
Tribunal Cum Labour Court
Chennai 600 006.

2.D.Chandrasekhar

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters patent against
the final order dated 31.01.2024 passed by this Court in W.P.No.26250
of 2010.



W.A.No.1667 of 2024

WEB COPY

For Appellant : Mr.P.Raghunathan
for M/s.T.S.Gopalan& Co
For R1 : Court
For R2 : Mr.K.M.Ramesh, Standing counsel
for Mr.V.Sukumar

J U D G M E N T

(Judgment of the Court was made by J.NISHA BANU,J.)

This Writ Appeal filed challenging the order passed in W.P No.26250 of 2010 dated 31.01.2024 and set aside the same by allowing the present writ appeal.

2. The Appellant-Indian Bank is a nationalized bank where the 2nd Respondent, a disabled employee, was appointed as a cashier in 1988 and was given a posting in G.A. Road Branch, Washermanpet Chennai which was near to his residence. On 05.06.2000, the 2nd Respondent reported that cash was not ready for checking, later revealing a discrepancy of Rs. 70,000. He left to retrieve the debit entry. After closing of the cash balance, the 2nd Respondent brought Rs.50,000/- which was taken as a too late receipt. Next day the 2nd Respondent remitted the balance of Rs.20,000/- and that the debit entry of the previous day was reversed.



W.A.No.1667 of 2024

Following this, on 06-06-2000, a show cause notice was issued for his misappropriation. The 2nd Respondent admitted his mistake on 23-06-2000, leading to a issue of a charge sheet dated 23-10-2000.

3. During an enquiry, he admitted his guilt and requested leniency on humanitarian consideration. On 31-05-2002, the enquiry officer held that the charge against the second respondent was proved. Despite his admission and repayment, the bank opted for a discharge with superannuation benefits instead of dismissal. This leniency was due to the mitigating factors of his early admission of guilt and repayment. Ultimately, the bank discharged him on 25.02.2003, without affecting his terminal benefits, and his appeal against this decision was dismissed on 19.07.2005.

4. The 2nd Respondent challenged his discharge from service, leading to a government referral before the 1st Respondent for adjudication by G.O. dated 24.10.2007. The 1st Respondent-Presiding Officer, Industrial Tribunal, found the charge on the 2nd Respondent is established but recommended a lesser punishment to avoid severe



W.A.No.1667 of 2024

WEB COPY

economic hardship, directing reinstatement with continuity of service and backwages limited to 15%, while forfeiting the remaining 85% of backwages be a punishment.

5. The said award was challenged by the Management-Indian Bank, in W.P.No.26250 of 2010. The learned Single Judge, by order dated 31.01.202 modified the Award and directed the Management to reinstate the 2nd Respondent without continuity of service and attendant benefits. Also added that such reinstatement shall date back to the date of award passed by the Industrial Tribunal (ie.12.08.2010). Aggrieved by the Writ Court's Order, the Appellant bank has preferred this present Writ Appeal.

6. The Learned counsel for the Appellant-Bank raised his contention in the grounds of appeal that during the suspension of 2nd Respondent for the period from 06-06-2000 to 26-03-2003, he had received a subsistence allowance ranging from 50% to 100% without performing any work, marking the first advantage for someone accused of misappropriation. The second benefit was his compulsory retirement,



W.A.No.1667 of 2024

WEB COPY

which included retiral benefits, provident fund payments, and gratuity. A third advantage came on 12-08-2010, when the Central Government Industrial Tribunal (CGIT) directed his reinstatement with back wages limited to 15%, in addition to the provident fund and gratuity which he had already received. Added to this on 31-01-2024, a learned Single Judge modified the award, specifying that he would not have continuity of service from 26-03-2003, to 12-08-2010, but that reinstatement should relate back to the date of the award. It is to be noted that the 2nd Respondent reached the age of superannuation on 31-12-2023 itself.

7. It is also submitted by the learned counsel for the appellant-Bank that the employees working in the field of banking sector requires high standard of honesty and integrity and when its employees commit an act of misappropriation, the appropriate punishment is termination. Admittedly, as held by the Industrial Tribunal, the 2nd Respondent had committed the misconduct of misappropriation of the Bank's funds.

8. The learned counsel for the Appellant-Bank would also submit that the Tribunal's power to grant reinstatement is limited to cases of



W.A.No.1667 of 2024

unjust termination and does not extend to intervening in employer discipline and stated that the courts should generally avoid interfering with administrative decisions unless they are egregiously unreasonable. Additionally, a history of good conduct does not mitigate serious misconduct, such as misappropriation of funds, which carries lasting consequences for the employee. The learned counsel in support of his contention had relied on the series of dictums laid down by the courts on land and prayed to allow this present Writ Appeal by reassessing both the impugned order of the learned Single Judge and the decision of the CGIT. The following are the decisions relied on by the learned counsel for the appellant to substantiate his contention;

- "1. State Bank of India and Another Vs. Bela Bagchi and Others- (2005) 7 SCC 435.*
- 2. Deputy General Manager (Appellate Authority) and Others Vs. Ajai Kumar Srivastava.-(2021) 2 SCC 612.*
- 3. State Bank of India and Others Vs. Ramesh Dinkar Punde-(2006) 7 SCC 212.*
- 4. Janatha Bazar (South Kanara Central Cooperative Wholesale Stores ltd and others vs. Secretary, Sahakari Noukarara Sangha and others.-(2000) 7 SCC 517.*
- 5. K. Malaichamy Vs. The Joint Registrar/Special Officer, Ramanathapuram District, Cooperative Wholesale Store Ltd., & Another.-2011 (3) LLN 306 (DB) Madras.*
- 6. LIC Of India Vs. R.Dhandapani -(2006) 13 SCC 613.*



W.A.No.1667 of 2024

WEB COPY

7. *Management of Catholic Syrian Bank Ltd Vs. Industrial Tribunal, Madras-104 and another- 1999 II LLJ 194*

8. *Damoh Panna Sagar Rural Regional Bank and Another Vs. Munna Lal Jain-(2005) 10 SCC 84."*

9. The Learned Counsel for the 2nd Respondent-delinquent contended that the enquiry conducted by the Enquiry Officer is not fair and proper and is vitiated with illegalities and irregularities and also added that the erring workman should be given an opportunity to reform himself and prove himself to be loyal and disciplined employee of the Appellant Bank. To substantiate his contention the learned counsel for the 2nd Respondent relied on the judgement reported in **Scooters India Limited, Lucknow Vs. Labour Court, Lucknow and others-SLP(Civil) No.7437 of 1988** dated 30.09.1988 and hence he prayed for dismissal of this Appeal.

10. Upon hearing the submissions made by the learned counsel for the Appellant, the learned counsel for the 2nd Respondent and on perusing the materials available on record, the point for determination in this appeal is:-



W.A.No.1667 of 2024

i). Whether the Appellant bank was justified in terminating the service of the 2nd Respondent on the ground of misconduct?

11. From the materials placed on record before us, it is quite clear that the 2nd Respondent was involved in the misappropriation of the bank's funds. It is pertinent to note that a Bank survives on the trust of its clientele and constituents. The employees of the Bank are expected to act with absolute integrity and honesty in handling the funds of the bank. Any misappropriation, even temporary, of the funds of the bank or its customers constitutes a serious misconduct, inviting severe punishment. Therefore, we are of the opinion that the order of termination passed by the bank does not suffer from any vice and the order of learned single judge holding the reinstatement of the 2nd Respondent into service is clearly flawed.

12. In view of the above said reasons, this Writ Appeal deserves to be allowed. Therefore, the award of the Labour Court in I.D.No.68 of 2007, dated 12.08.2010, as well as the order passed by the Learned Single Judge, in W.P.No.26250 of 2010, dated 31.01.2024, are set aside. The order of the Appellant Bank dated 25.02.2003, discharging the 2nd



W.A.No.1667 of 2024

WEB COPY

respondent from service with superannuation benefits and without disqualification from future employment, is hereby confirmed.

13. This Writ Appeal is allowed on the above terms. No costs.

(J.N.B,J.) (P.D.B., J.)
04.07.2024

sk/nvsri

To
The Presiding Officer,
First Additional Labour Court,
Chennai.



WEB COPY



W.A.No.1667 of 2024

J. NISHA BANU, J.
and
P.DHANABAL,J.

sk/nvsri

W.A.No.1667 of 2024

04.07.2024



WEB COPY



W.A.No.1667 of 2024