



W.A(MD)No.1740 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1740 of 2024
and
C.M.P.(MD)No.13320 of 2024**

The Deputy General Manager,
Indian Bank, Circle Office,
S N High Road,
Tirunelveli-627 001.

... Appellant / 2nd Respondents

-VS-

1.V.Shanmugam

... 1st Respondent / Writ Petitioner

2.The Presiding Officer,
Central Government Industrial
Tribunal-cum- Labour Court,
First Floor, B Wing,
Shastri Bhavan,
Chennai-600 006.

... 2nd Respondent / 1st Respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 17.06.2022 made in W.P.(MD)No.1466 of 2013.

For Appellant : Mr.S.Suresh

For R-1 : Mr.G.Thalaimutharasu



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JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The bank is on appeal against the order of the writ Court reducing the punishment of compulsory retirement into one for stoppage of increment for one year without cumulative effect.

2. The respondent who was serving as a Sub staff / Peon in the bank, was charged with theft of Rs.5,000/- (Rupees Five Thousand only) from the cash vault. Reliance was placed on the fact that he had acknowledged taking the money, the respondent would however claim that the letter admitting guilt was extracted from him. It is also seen that the money was made good on the same day. The Enquiry Officer found the respondent guilty and the same was accepted by the management and the punishment of compulsory retirement was imposed. This was challenged before the Labour Court by way of an ID and the ID was dismissed and that order was challenged in the writ petition.

3. During the pendency of the writ petition, the employee retired. Taking note of the nature of the delinquency, status of the respondent as well as the evidence that was available to reach the conclusion that the respondent was guilty, the writ Court found that the conclusion of the Enquiry Officer and the disciplinary authority cannot be fully supported.



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The writ Court also took note of the fact that the money was made good on the same day and the fact that the respondent had attained the age of superannuation by then. In the circumstances stated above, the writ Court felt that punishment of compulsory retirement is little too harsh. Therefore, the writ Court had thought it fit to reduce the punishment to stoppage of increment for one year without cumulative effect.

4. Though Mr.S.Suresh, learned counsel appearing for the bank would vehemently contend that the quantum of money involved is not the criteria and is only the conduct of the employee that should be looked into, the writ Court has analysed the evidence on record and it has also extracted the evidence that is available, which shows that the respondent was already in a pathetic position on the date of the occurrence. The evidence of one of the witnesses which has been discussed by the writ Court itself would show that the respondent has struggled to make good the money on the same day.

5. We are therefore, unable to accept the contentions of the learned counsel appearing for the appellant. No doubt, utmost good faith and good conduct is required of an employee but circumstances must also be taken into account in considering the punishment, that is, to be imposed for minor delinquencies. Hence, we do not deem it fit to interfere with the order of the writ Court.



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6. Therefore, the writ appeal fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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