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W.P.Nos.28686 and 31444 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.28686 and 31444 of 2012
and M.P.No.1 of 2012 and W.M.P.No.36086 of 2024**

Prayer in W.P.No.28686 of 2012

1.M/s.ICICI Bank Limited,
HRMG ICICI Bank Tower,
No.93, Santhome High Road,
Chennai-600 028.
now shifted to
M/s.ICICI Bank Limited,
HRMG, 4th Floor, Arihant Insight,
2nd Main Road, 24, South Phase,
Ambattur Industrial Estate,
Ambattur, Chennai-600 058,
Represented by its Branch Head.

2.The General Manager,
HRMG ICICI Bank Limited, ICICI Bank Towers,
Bandra Kurla Complex, Mumbai-400 051,
Represented by its Deputy Manager-HRMG.

... Petitioners

Vs.

1.The Special Deputy Commissioner of Labour
(Under Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947),



W.P.Nos.28686 and 31444 of 2012

WEB COPY
DMS Complex,
Chennai-6.

2.Siva Subramanian

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records and quash the same connected with TSE.No.I/1/2006 passed by the first respondent i.e., Special Deputy Commissioner of Labour, Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947, Chennai-6, order dated 22.08.2012, insofar as it relates to the direction issued to payment of compensation is concern to the second respondent after finding the termination of services justified made therein.

For Petitioner : Mr.Sanjay Mohan
for Mr.S.Ramasubramanian and
Associates

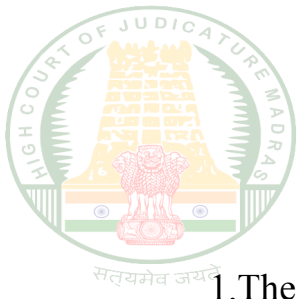
For Respondent : Mr.K.Surendran
Additional Government Pleader
for R1
Party-in-person- R2

Prayer in W.P.No.31444 of 2012

S.Sivasubramanian

... Petitioner

Vs.



W.P.Nos.28686 and 31444 of 2012

WEB COPY

1.The Special Deputy Commissioner of Labour
(Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947),
4th Floor, D.M.S. Office, Teynampet,
Chennai-6.

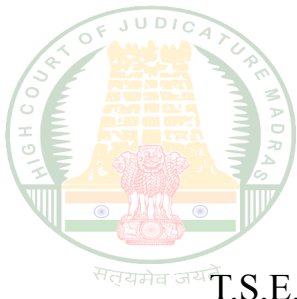
2.ICICI Bank Limited,
Rep.by its General Manager,
HRMG,
ICICI Bank Towers,
Bandra Kurla Complex,
Mumbai-400 051.

3.The Assistant General Manager,
HRMG,
ICICI Bank Limited,
ICICI Bank Towers,
Bandra Kurla Complex,
Mumbai-400 051.

4.The Chief Manager,
HRMG,
ICICI Bank Limited,
Regional Office, 3rd Floor,
SG 24, South Phase,
Ambedkar Industrial Estate,
Chennai-600 058.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, to call for the
records pertaining to the order passed by the first respondent in



W.P.Nos.28686 and 31444 of 2012

T.S.E.I/1 dated 22.08.2012, confirming the order passed by the second respondent in ICBK/HRMG/2003-2004/6296 dated 23.10.2003 and the order of termination passed by the third respondent in ICBK/HRMG/2002-2003/411 dated 11.02.2003, quash the same and direct the respondents 2 and 3 to reinstate the petitioner with all attendant benefits.

For Petitioner : Party-in-person

For Respondents : Mr.K.Surendran
Additional Government Pleader
for R1
Mr.Sanjay Mohan
for Mr.S.Ramasubramanian and
Associates
For R2

C O M M O N O R D E R

Since the issue raised in both the writ petitions is one and the same, the writ petitions are disposed of by way of this common order.

2. For the sake of convenience and clarity, the petitioners in W.P.No.28686 of 2012 are referred to as the employer Bank and the petitioner in W.P.No.31444 of 2012 is referred to as the employee.



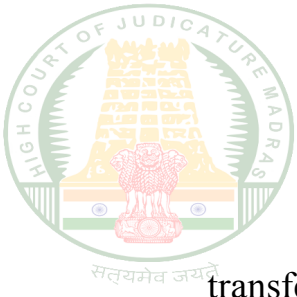
W.P.Nos.28686 and 31444 of 2012

WEB COPY

3. W.P.No.28686 of 2012 has been filed by the employer bank, namely, ICICI Bank Limited challenging the compensation fixed by the Special Deputy Commissioner of Labour, Appellate Authority under Tamil Nadu Shops and Establishments Act, 1947, Chennai.

4. W.P.No.31444 of 2012 has been filed by the employee for enhancement of compensation and for reinstatement with all attendant benefits.

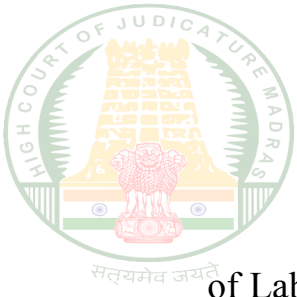
5. The learned Senior Counsel appearing for the employer Bank submits that the employee joined in the Bank of Madura which was merged with ICICI Bank on 10.3.2001, as Clerk in Kandavarayanpatti Branch, Sivaganga District, on the basis of the appointment order dated 14.12.1981. While working in the aforesaid Branch, he had quarreled with the Branch Manager and the other colleagues and customers and the staffs working in the aforesaid Branch have expressed their grievance to the Bank Manager to



W.P.Nos.28686 and 31444 of 2012

WEB COPY

transfer him. Further, the employee has also made a specific request for transfer to Salem and on the request made by him, he was transferred to Salem Town and thereafter, he was transferred to Ramanathapuram Branch, where also, he did not change his attitude and quarreled with the bank staffs and made a wrong debit in the customer account. Again, he was transferred to Kottaipattinam Branch of Bank of Madura and he did not co-operate with the colleagues and had misplaced the key of the bank premises and he was issued with a charge sheet for the aforesaid conducts and was issued with a show cause notice for not submitting the large number of TA advance to the debit of Suspense Payment Account and though he submitted his explanation, it was not found satisfactory. He was transferred to several places due to the fact that he was incompatible with the colleagues and subordinate staff and several show cause notices were issued for dereliction of duty and for non-adherence of the rules of the Bank which constrained the employer Bank to pass an order of termination on 11.02.2003, against which, the employee has preferred an appeal against the employer Bank before the Appellate Authority, namely, the Special Deputy Commissioner



W.P.Nos.28686 and 31444 of 2012

WEB COPY

of Labour. The Appellate Authority held that the employer Bank has proved the reasonable cause of incompatibility of the employee which is sufficient to confirm the order of termination, but, however, directed the employer Bank to pay compensation to the employee on the basis of 15 days of monthly last drawn salary to the employee for each completed year of service from the date of appointment to the date of termination within 30 days from the date of receipt of the order. Challenging the same, W.P.No.28686 of 2012 has been filed.

6. The party-in-person who appeared before this Court submitted that admittedly, he was transferred several times all over India and he accepted all those transfers without making any protest, however, the employer Bank terminated the service of the employee alleging that the employee did not co-operate with the superiors, which was confirmed by the Appellate Authority vide impugned order dated 22.08.2012 by directing the employer to pay meager compensation. He reached the age of superannuation in the year 2018 after having rendered 22 years of service in



W.P.Nos.28686 and 31444 of 2012

WEB COPY

the employer Bank. He further submitted that the terminal benefits itself would come to around Rs.1 Crore. Hence, he prays for appropriate orders.

7. Heard the learned counsel appearing for both sides.

8. The facts in the present case are not in dispute and the appointment of the employee has not been disputed by the employer Bank. Admittedly, the employer Bank has passed an order of termination on 11.02.2003 on the ground that he did not co-operate with the colleagues and the customers and failed to obey the orders of the superiors and did not change his attitude and there was a lack of misunderstanding between the employee and the superiors and transfers were effected on various occasions due to incompatibility of the employee with his superiors and therefore, it was not possible for the employer Bank to retain the employee who is incompatible to the profile of his job, and not on the ground of misconduct.



W.P.Nos.28686 and 31444 of 2012

WEB COPY

9. It is not the case of the employee that the allegations with regard to his continued incompatibility had led to recurrent transfers and not even on a single occasion, the employee has questioned the same. Therefore, it is evident from the records that the employee was not ready to mend his ways inspite of leniency being shown on him by merely transferring him. Considering the reprehensible act of the employee and his non-readiness to mend his ways, the employer Bank had no other choice but to terminate the service of the employee.

10. The materials available on record establish not only the act of the employee and his conduct all through his career, but also exhibits his insubordination to the employer and also his incompatibility with his colleagues. Therefore, the employer Bank had deemed it fit and proper to terminate his services. In such a backdrop, there being reasonable cause which has been proved by the employer Bank, the order of termination passed by the Bank as confirmed by the Appellate Authority does not require any interference by this Court.



W.P.Nos.28686 and 31444 of 2012

WEB COPY

9. Insofar as the compensation is concerned, the Appellate Authority directed the employer Bank to calculate the compensation on the basis of 15 days of monthly last drawn salary of the employee for each completed year of service from the date of appointment to the date of termination and pay the compensation. However, the fact remains that the employee entered into service in the year 1981 and the order of termination was passed in the year 2003 and he rendered 22 years of service in the bank. Hence, considering the service rendered by the employee in the Bank and the remaining service, this Court, in order to strike out the balance between the parties, is inclined to fix a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as lumpsum compensation payable by the employer Bank to the employee in lieu of the compensation ordered by the appellate authority and the employer Bank is directed to settle the compensation of Rs.20,00,000/- as full quit within a period of four weeks from the date of receipt of a copy of this order, failing which, the employee would be entitled to interest at 6% per annum from the date of termination till the date of payment.



W.P.Nos.28686 and 31444 of 2012

WEB COPY

10. Accordingly, these Writ Petitions are disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

25.03.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

The Special Deputy Commissioner of Labour
(Under Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947),
DMS Complex,
Chennai-6.



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W.P.Nos.28686 and 31444 of 2012

M.DHANDAPANI, J.

ssb

W.P.Nos.28686 and 31444 of 2012

25.03.2025