**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 26.02.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.4385 of 2012**
**And**
**W.M.P.No.35332 of 2023**

1.The Management of ICICI Bank Limited
Appellate Authority
ICICI Bank Towers
Bandra – Kurla Complex
Mumbai
Rep. by its Senior General Manager HRMG

2.The Management of ICICI Bank Limited
Appellate Authority
ICICI Bank Towers
Bandra – Kurla Complex
Mumbai 400 051
Rep. by its Deputy General Manager – HRMG

3.The Management of ICICI Bank Limited
Regional Processing Centre,
192, Anna Salai,
Sakthi Towers,
Chennai – 600 002
Rep. by its Branch Head ... Petitioners

Vs.

1.The Learned Authority
Special Deputy Commissioner of Labour
Appellate Authority under Tamilnadu Shops and Establishment Act, 1947
DMS Compound, Teynampet,
Chennai – 600 006.

2.A.N.Somasundaram ... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with TSE 1/18/2006 passed by the first respondent, i.e., Special Deputy Commissioner of Labour, Appellate Authority under Tamilnadu Shops and Establishment Act, 1947, Chennai.6 and to quash the order dated 13.01.2012 made therein.

For Petitioners : Mr.Sanjay Mohan
for M/s.S.Ramasubramaniam and Asso.

For Respondents : Mr.K.Surendran for R1
Additional Government Pleader
Mr.Balan Haridas for R2

**O R D E R**

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari to call for the records connected with TSE 1/18/2006 passed by the first respondent and to quash the order dated 13.01.2012 made therein.

2.The learned counsel appearing for the petitioners submitted that the second respondent joined the service of Bank of Madura which was subsequently merged with the ICICI Bank on 10.03.2001. During

April, 2005, the second respondent while working as Manager – II Grade at the Regional Processing Centre, Delhi was transferred to Regional Processing Centre, Chennai. ICICI Bank has travel claim policy for its officers who are transferred from one location to another due to business exigencies. The second respondent submitted travelling expenses claim dated 25.05.2005 along with certain bills wherein he claimed Rs.50,600/- for freight charges, Rs.2,800/- for hotel expenses at Chennai and Rs.3,300/- for food and bewerages as expenses incurred on his transfer from Delhi to Chennai on 14.05.2005.

3.The learned counsel appearing for the petitioners further submitted that on scrutiny the said bills were found to be bogus and hence a charge sheet dated 13.12.2005 was issued to him and after enquiry he was dismissed from service vide order dated 26.04.2006 and aggrieved by the same, the second respondent preferred appeal before the Appellate Authority of the Petitioners Bank and the Appellate Authority rejected the said appeal and challenging the same, the second respondent filed appeal before the first respondent and the first respondent vide impugned order allowed the appeal.

4.The learned counsel appearing for the petitioners further submitted that the first respondent allowed the appeal filed by the second respondent mainly on the ground that the Appellate Authority of the Bank has held in its order that the Management has not mentioned the name of the person, whom he has spoken to the hotel and eventually not obtained statement from them; insofar as the hotel fake bill is concerned, the learned authority held no *mens rea* behind the act of the second respondent and it was only a mistake. The learned counsel further submitted that the second respondent during enquiry had deposed that it was a mistake committed by his wife, however, the second respondent was working as Manager and he owe responsibility and hence shifting the burden on his wife is not sustainable and hence order of dismissal was passed and the Appellate Authority of the Bank rightly rejected the appeal filed by the second respondent, however, the same was reversed by the first respondent, which is not sustainable one. The learned counsel further submitted that the second respondent on his own admitted the guilt and when such admission is available, the impugned order is not sustainable one.

5.The learned counsel appearing for the petitioners further submitted that the second respondent reached the age of superannuation on 31.12.2019 and even thereafter, he continued to draw 17 b wages to an extent of Rs.15 Lakhs which the petitioners Bank is entitled to recover from the second respondent.

6.Per contra, the learned counsel appearing for the second respondent would submit that the second respondent joined the service of Bank of Madura as Clerk during the year 1982 and Bank of Madura was subsequently merged with the ICICI Bank on 10.03.2001. The petitioners Bank had ill intention with the merged Bank employees and they decided to send them out slowly. Accordingly, the petitioners Bank issued charge memo to the second respondent as if he created bogus bills and committed fraud to enrich himself from the Bank amount and made allegation against the second respondent as if he stayed in City Mansion, Chennai and no such hotel is available. When such allegation is made against the second respondent, it is the duty caste upon the petitioners Bank to examine the hotel employees before ordering for domestic enquiry and no employee was examined. The first respondent after considering all the factual aspects, allowed the appeal filed by the second respondent and the same need not be interfered with, unless this Court finds it perverse.

7.The learned counsel appearing for the second respondent further submitted that the last drawn salary was Rs.38,917/- and pursuant to the order of this Court dated 06.08.2012 in M.P.Nos.1 to 3 of 2012 in W.P.No.4385 of 2012, the second respondent received a sum of Rs.25,000/- per month as 17 b wages and subsequently, the second respondent reached the age of superannuation. Hence, there is no question of reinstatement and hence, this Court may issue direction to the petitioners Bank to settle the benefits due to the second respondent as per the last drawn salary.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Admittedly, the second respondent joined the service of Bank of Madura as Clerk during the year 1982 and Bank of Madura was subsequently merged with the ICICI Bank on 10.03.2001. During April, 2005, the second respondent while working as Manager – II Grade at the Regional Processing Centre, Delhi was transferred to Regional Processing Centre, Chennai. ICICI Bank has travel claim policy for its officers who are transferred from one location to another due to business exigencies. The second respondent submitted travelling expenses claim dated 25.05.2005 along with bills for expenses incurred on his transfer from Delhi to Chennai on 14.05.2005.

10.Perusal of records reveal that the petitioners did not produce sufficient documents before the first respondent to satisfy that there is intention on the part of the second respondent to defraud the bank. Hence drawing adverse inference in the absence of documentary evidences to prove the *mens rea* of the second respondent, the first respondent came to the conclusion that the charges levelled against the second respondent are not proved. Such finding rendered by the first respondent is not perverse.

11.During the pendancy of this writ petition, the second respondent has reached the age of superannuation and now reinstatement is not possible. Hence, this Court is of the opinion that a sum of Rs.10 Lakhs would be a justifiable compensation to the second respondent and the amount already paid to the second respondent need not be recovered.

12.The petitioners Management is directed to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) in full quit to the second respondent, within a period of twelve weeks from the date of receipt of a copy of this order, failing which, the petitioner Management would be liable to pay interest at the rate of 7.5% p.a., from the date of writ petition till the date of actual payment. The amount already paid by the petitioners to the second respondent need not be recovered from the second respondent.

13.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

**26.02.2025**

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

To

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**M.DHANDAPANI,J.**
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