IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10822 of 2022
and W.M.P. No.10453 of 2022

1. The Chairman and Managing Director,
ICICI Bank Limited,
4th Floor, South Tower,
Bandra Kurla Complex,
Mumbai - 400 051.
represented by its Manager - Legal
Mr. G. Ramesh.

2. The Sr. Executive Vice President,
ICICI Bank Limited,
Corporate Office, Chennai Unit,
Chennai - 600 002. … Petitioners

Vs.

1. Special Joint Commissioner of Labour,
Commissionerate of Labour,
Chennai - 600 006.

2. S.R. Varadharajan … Respondents

PRAYER: The Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records connected with the impugned order dated 09.03.2022 made by the 1st respondent in T.S.E. Nop.1/3 of 2002 on the file of the

Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 and to quash the same.

For petitioners	:	Mr.Sanjay Mohan for M/s. S. Ramasubramaniam Associates
For Respondents	:	
For R1	:	Mr. L.S.M. Hasan Fizal, Additional Government Pleader.
For R2	:	Mr. Balan Haridas.

ORDER

This Writ petition has been filed to quash the order passed by the 1st respondent vide proceedings in T.S.E. No.1/3 of 2002 on the file of the Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 dated 09.03.2022, wherein the 2nd respondent herein filed an appeal under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 to set aside the order dated 31.12.2001 passed by the 1st petitioner herein confirming the order passed by the 2nd petitioner, causing dismissal of the 2nd respondent from the service of the petitioners. The Appellate Authority allowed the said appeal and set aside the order of termination from service passed by the petitioners herein. Aggrieved by the said order, the present petition has been filed.

2. The learned counsel appearing for the petitioners would submit that the 2nd respondent joined service of the erstwhile bank of Madura as

'Apprentice Clerk' on 12.05.1970 and pursuant to the merger of Bank of Madura Ltd., with ICICI Bank in March 2001, the 2nd respondent was working as Manager Operations in T.Nagar Branch, Chennai. During his employment, he committed serious irregularities pertaining to purchase of local / outstation cheques and the facilities provided to customers and therefore, he was suspended on 20.03.2001. Thereafter, a detailed Charge Memo was issued to him on 20.04.2001 for serious allegations, for which, the 2nd respondent submitted his explanation dated 04.05.2001 by denying the charges. Thereafter, domestic enquiry was conducted and after following the procedures, punishment of dismissal from service was awarded to the 2nd respondent. As against the said punishment, the 2nd respondent approached the 1st respondent and the same was allowed vide proceedings in T.S.E. No.1/3 of 2002. The allegation of victimization is a serious allegation by an employee against an employer and therefore, it must be properly and adequately pleaded by giving all the particulars upon which the charges are based to enable the employer to fully meet them. In this case, there is no specific plea of 'victimization' either in the explanation submitted by the 2nd respondent employee or in the enquiry proceedings. While so, the finding of the Appellate Authority is perverse and illegal for the reasons that the

Authority failed to consider that Mr. R. Venkatesan is a subordinate to the 2nd respondent employee and is only an officer.

2.1. Further Mr. Sambandam is a clerical Staff in the branch and Mrs. Pankaja and Rajalakshmi are also the clerical Staff and the powers and responsibilities of the post held by the 2nd respondent cannot be equated in par with his subordinates. The learned Authority misunderstood the entire case which is evident from the finding that "merely because the Branch Manager is allowed to resign from his job, it cannot be said that the appellant was not discriminated. When it is alleged that to be serious misconduct in the case of the appellant, it is not known how the branch manager was allowed to resign without initiating any action and without imposing any punishment as given to the appellant. Therefore, the action of the bank lacks Bonafide and it is a clear case of victimization and discriminatory action". The above said findings of the Appellate Authority are erroneous.

2.2. When the Appellate Authority accepted the findings of the investigation officer that all the persons in the branch are responsible for the lapses alleged, however, renders a finding that there is a discrimination in punishment when all others were responsible for lapses including the 2nd respondent. Further the Appellate Authority failed to consider that the appellant banks are dealing with the public money and any lapses on the part of the appellant's Officers in handling the public money would end up in hardship to the customers invested money in the appellant bank. Therefore, the credibility and integrity of the employees are paramount in banking sector and the deliberate lapses of violating the norms fixed by the bank to safeguard the money and any officers violating the banking process cannot be allowed to go scot free on the ground of 'no loss' to the bank. Therefore, the order passed by the 1st respondent Authority is liable to be set aside.

3. The learned counsel appearing for the 2nd respondent would submit that the 2nd respondent was working under the petitioner's bank. Originally the 2nd respondent has filed an appeal against the order of termination dated 09.02.2002 issued by the petitioners and the same was allowed on 03.06.2003. Thereafter, the petitioners challenged the said order before this Court in W.P. No.24067 of 2003 and this Court set aside the order and remanded back the matter to the 1st respondent to pass orders by considering the proportionality of penalty, especially in the light of 30 years of service of the 1st respondent and equality of treatment. Thereafter, the 1st respondent

passed an order after elaborately discussing about each charge and finally came to a conclusion that the Branch Manager Mr. R. Dhathathri was the competent authority to purchase local cheques and he only purchased several cheques from them and the 2nd respondent purchased only 8 cheques that too only with authorization by the Branch Manager. Similarly with regard to the purchase of cheques from the customers in Part-II also, the appellant had purchased the cheque only with the authorization of the branch manager. But no action was taken against the branch manager and similarly there was no action taken against Mr. Venkatesan for not getting confirmation and approval from the Head Office. No action was taken against the persons who have entered and authorized transactions and for having directly made entries in the G.L. account. Therefore, there is a clear victimization by initiating proceedings against the 2nd respondent. The Branch Manager was allowed to resign without initiating any action and without imposing any punishments as given to the 2nd respondent and thereby, allowed the appeal. Therefore, the 1st respondent Authority has passed a reasoned order and the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the 2nd respondent was issued a Charge Memo and thereafter, a domestic enquiry was conducted and the Disciplinary Authority imposed punishment of removal from service. According to the 2nd respondent, delinquency was committed along with the other persons, but the Charge Memo was issued only to the 2nd respondent, thereby, there is a victimization. According to the petitioners, the 2nd respondent only purchased cheques from the customers beyond his jurisdiction and he also admitted for 8 cheques. Therefore, based on the admission, his delinquency is proved. However, the Disciplinary Authority, based on the enquiry report, rendered findings that the charges were proved. However, the Appellate Authority without considering the evidence adduced in the Disciplinary proceedings, erroneously set aside the order of dismissal passed by the disciplinary authority by holding that there is a victimization and other responsible persons were not subjected for disciplinary enquiry proceedings.

6. This Court perused the entire records. Ten charges were framed

against the 2nd respondent. There is no dispute that the domestic enquiry was conducted by giving sufficient opportunity to the delinquent / 2nd respondent. Even as per the charges, the other persons have also involved in the alleged delinquency. But those persons were not been issued with any Charge Memo. Especially the Branch Manager, who is responsible for the purchase of cheques and the Branch Manager had only purchased most of the cheques. Whereas this 2nd respondent purchased only 8 cheques. Therefore, non-initiation of proceedings as against the other persons who are also involved in the delinquency shows the intention of the petitioner. When the other persons also involved in the delinquency, without initiating the disciplinary proceedings as against all the persons, initiation of the disciplinary proceedings only as against the 2nd respondent would amounts to victimization. Therefore, the Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947, has gone into the merits of the case and discussed elaborately and rendered findings in Para No.18 which reads as follows:-

> *"18. So far as the transactions with the customer mentioned in Part-I, the branch Manager Mr. R. Dhathathri was the competent authority to purchase local cheques and he only purchased several cheques from them and the appellant had purchased only 8 cheques, that too only with the authorization of the above branch manager, as discussed above. Similarly, with regard to the purchase of cheque from the customer in Part-II also, the appellant had purchased the*

cheque only with the authorization of the branch Manager. When the branch manager himself had purchased the cheques, according to the bank, in violation of the norms and procedures, no action was taken against him. Similarly, no action was taken against Mr. R. Venkatesan for not getting confirmation and approval from the head officer. Similarly, no action was taken against the persons who have entered and authorized transactions and for having directly made entries in the GL account. Even the enquiry officer has held that the appellant was guilty based on the joint responsibility. The investigation officers have pointed out that everyone in the branch who were involved in the transactions at various stages was responsible for the alleged lapses. Therefore, when all and everyone was stated to be responsible, it is not known as to why disciplinary action was initiated only against the appellant and as to why the appellant alone was punished with the extreme punishment of dismissal from service, when such alleged lapses on the part of others were not treated as misconduct and when all of them were let off. Further, it is not known as to how the appellant can be punished even for the cheques purchased by the branch manager, particularly when he was the competent authority and to make a decision as to whether local cheques could be purchased from the above customers and when he was responsible for getting confirmation from the head office. Merely because the branch manager is allowed to resign from his job, it cannot be said that the appellant was not discriminated. When it is alleged to be serious misconduct in the case of the appellant, it is not known how the branch manager was allowed to resign without initiating any action and without imposing any punishment as given to the appellant. Thus, the appellant alone has been singled out and made a scapegoat. Therefore, the action of the bank lacks bona fide and it is a clear case of victimization and discriminatory action".

7. The above said findings given by the Appellate Authority / 1st respondent herein are based on the legal aspects and thereafter, the bank has collected money from the customers. Therefore there is no any loss to the bank and the 2nd respondent has rendered service in the petitioners' bank for more than 31 years. Therefore, considering the above said facts and circumstances, the Authority has set aside the punishment of removal from

service awarded by the disciplinary authority. Therefore, there is no any perversity or illegality found in the order passed by the 1st respondent and it does not warrant interference by this Court.

8. In view of the above discussions, this Court is of the opinion that this Writ petition has no merits and it deserves to be dismissed.

9. Accordingly, the Writ petition is ***dismissed.*** There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

25.07.2025

Index : Yes/No.
Speaking order/non-speaking order
mjs

To

The Special Joint Commissioner of Labour,
Commissionerate of Labour,
Chennai - 600 006.

P. DHANABAL, J.,

mjs

W.P. No.10822 of 2022

25.07.2025