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W.P.No.12846 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.06.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.12846 of 2023 and
W.M.P.No. 12643 of 2023

G. Jai Prakash

... Petitioner

VS-

1. The Appellate Authority under
the Tamilnadu Shops and Establishments Act, 1947,
(Special Joint Commissioner of Labour),
Commissionerate of Labour,
Chennai – 600 006.
2. The Management of the Lakshmi Vilas Bank Limited,
Now known as DBS Bank Limited,
Corporate Office: "LVB House",
No.4, Sardar Patel Road, Guindy,
Chennai – 600 032.
3. The Disciplinary Authority,
The Management of the Lakshmi Vilas Bank Limited,
Now known as DBS Bank Limited,
Corporate Office: "LVB House",
No.4, Sardar Patel Road, Guindy,
Chennai – 600 032.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 24.02.2023 passed by the 1st Respondent order in I.A. No. 9 of 2021 in T.N.S.E-I/5 of 2019



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quashing the same and consequently directing the 1st Respondent to decide the appeal filed by the petitioner under Section 41(2) of the Tamilnadu Shops and Establishments Act, 1947 on merits.

For Petitioner : M/s. K. Elango
For Respondent – 1 : M/s. M. Jayanthi
Additional Government Pleader
For Respondents – 2&3: M/s. S. B. Keerthana
for M/s.Haroon Al Rasheed

ORDER

Challenging the order passed by the 1st respondent in I.A.No.9 of 2021 in T.N.S.E-I/5 of 2019, the workman is before this Court.

2. The brief facts are as follows:

(i) The petitioner has joined the services of the 2nd respondent Bank as a Clerk at Adoni Branch, Andhrapradesh on 27.02.1987. In the year 1998, he was promoted as a “Probationary Officer” and posted at Mannargudi Branch, Tamilnadu. Thereafter, he was promoted as a Branch Manager (Scale-I) in the year 2001, as Branch Manager (Scale-II) in the year 2004 and as Scale III Senior Branch Manager in the year 2008.

(ii). It is the petitioner's case that while he was employed at Rajkot, on 23.11.2011, he was informed over phone by the Manager of



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the Tirupathi Branch that one of their customers had given deposit receipts for renewal. The Bank authorities had found that one of the deposit receipts valued at Rs.33,143.65/- had been pre-closed on 01.07.2009 and that it was the petitioner who had initiated and authorized its closure. The money had been transferred to an account in Chittoor Branch, Andhrapradesh. The petitioner would submit that he had immediately taken steps to locate this account holder at Chittoor Branch to whose account the amount had been inadvertently transferred and to deposit the money with accrued interest to the credit of the Tirupathi Branch. The said person had also transferred the money from his account in Chittoor Branch to the Tirupathi Branch. Though the entire amount was credited with interest on the very next day ie. 24.11.2011, the petitioner was issued with a Charge Sheet on 10.02.2012 alleging that he had deliberately transferred the amount to one P.Babu's account in Chittoor Branch.

(iii) The petitioner would submit that he was shocked to learn about the charge sheet since he was under the impression that the issue



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had been closed on 24.11.2011 with the amounts having been paid. The 2nd respondent had called upon the petitioner to submit his written statement of defence and by letter dated 17.02.2012, the petitioner had denied the charges levelled against him. By letter dated 28.02.2012, the 2nd respondent had informed the petitioner that they were not convinced with the explanation and that they were proceeding with the domestic enquiry.

(iv) On 15.03.2012, an enquiry was conducted and the Presenting Officer, a Law Graduate from H.R.Department of the Management had filed Exs. M1 to M16. The petitioner had submitted his statement of defence on the very same day. The Deputy Manager, Regional Office, Hyderabad and the Manager, Tirupati Branch were examined as M.W1 and M.W2 respectively. Babu, a customer of Chithoor branch was examined as D.W1. The enquiry was conducted on a single day. The petitioner would submit that the Enquiry Officer, without properly appreciating the evidence, held that the petitioner is guilty of charges and by order dated 01.11.2012, the 3rd respondent / Disciplinary Authority had accepted the findings of the enquiry officer and imposed



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the punishment of “Discharge from Service” against the petitioner. The petitioner had given his explanation vide letter dated 17.11.2012.

However, by order dated 23.11.2012, he was dismissed from service.

(v) The petitioner would submit that he had filed an appeal dated 08.01.2013 before the Appellate Authority under the second respondent-Bank, who by order dated 19.08.2013, has confirmed the order of the 3rd respondent. Once again, a review application was filed before the Reviewing Authority under the 2nd respondent. However, the reviewing authority did not pass any orders despite several reminders.

(vi) The petitioner by his letter dated 14.10.2015 had requested the 2nd respondent to disburse his terminal benefits including gratuity. The petitioner had received the cheque towards the provident fund under cover of a letter dated 29.04.2016. However, the gratuity was not paid. He was further informed by the 2nd respondent through his letter dated 28.09.2016 that his gratuity to the tune of Rs.6,99,002.70 had been forfeited. Meanwhile, the petitioner was advised to file an appeal under Section 41(2) of the Tamil Nadu Shops and Establishment Act, 1947



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(Hereinafter called “Act”) within 30 days from the date of his termination. After receiving the said advice, the petitioner had filed an appeal with a delay of 1513 days. This application was numbered as I.A.No.3 of 2017 and it was in the counter filed by the Management that the petitioner had come to learn that his review application had been dismissed on 26.03.2014. This order has not been communicated to the petitioner till 04.10.2021 when the documents were filed by the Management in I.A.No.9 of 2021

(vii) The petitioner's application for condoning the delay of 1513 days in filing the TNSE appeal was dismissed by the 1st respondent by order dated 10.04.2018. This order was challenged in W.P.No.4262 of 2019. By order dated 02.04.2019, this Court had allowed the writ petition with a specific direction to the 1st respondent to adjudicate the appeal on its merits and in accordance with law.

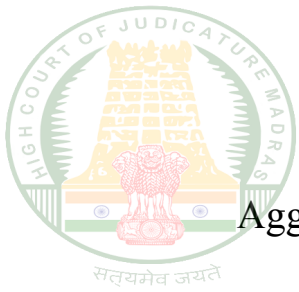
(viii) After the order of this Court, the 1st respondent had



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commenced to hear the appeal on merits. The petitioner was examined as AW-1 and his evidence was completed on 10.03.2021. The appeal was thereafter posted for Management side evidence on 20.04.2021. It is at this juncture that the Management has chosen to file 3 applications, namely (i) I.A.No.8 of 2021 filed to frame an issue as to whether appellant had given an acceptable reason for not filing the appeal in time and to decide the same in the first instance. (ii) I.A.No.9 of 2021 filed to frame an issue as to whether any cause of action arose in Chennai for the appellant to invoke the jurisdiction and decide the same in the first instance and (iii) I.A.No.10 of 2021 filed to frame an issue of maintainability on the ground of acquiescence to the order of termination.

(ix) The petitioner would submit that he had filed counter affidavits to all the above applications and that the Management had not pressed the application in I.A.No.8 of 2021. Therefore, the said application was dismissed. I.A.No.10 of 2021 was also dismissed. As regards I.A.No.9 of 2021, the 1st respondent held that he does not have the jurisdiction to entertain the appeal and dismissed the same.



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Aggrieved by the same, the petitioner is before this Court.

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3. The learned counsel for the petitioner would submit that the said application questioning jurisdiction has been taken after the evidence on the side of the petitioner had been closed. Further, the petitioner had already invoked the jurisdiction against the order passed by the 1st respondent refusing to condone the delay. At that point in time, the Management had taken out the issue of jurisdiction. Further, he would submit that the Corporate office of the 2nd respondent is situate within the jurisdiction of the 1st respondent and therefore, the order is bad.

4. The learned counsel for the respondent, on the other hand, would submit that cause of action has not arisen within the jurisdiction of this Court and the same had taken place at Tirupathi. When the petitioner was issued with the charge sheet, he was working at Rajkot. Therefore, no part of the cause of action has arisen within the jurisdiction of this Court. No doubt in the earlier round, this plea had not been taken. However, since the issue relates to jurisdiction, the same can be raised at any point in time.



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5. Heard the learned counsels on both sides and perused the materials available on record.

6. Admittedly, no part of the cause of action has arisen to invoke the jurisdiction of the 1st respondent. The act of dishonesty was committed when the petitioner was working at Tirupathi. The order of discharge emanated from Karur. The petitioner has never worked in Tamil Nadu nor was any communication sent outside Karur and no part of the cause of action arose at Chennai. Therefore, the 1st respondent has rightly held that he has no jurisdiction to consider the appeal as he does not have jurisdiction over Tirupathi Branch at Andhra Pradesh or Rajkot Branch at Gujarat. The delay in filing the appeal has already been condoned by orders of this Court, at which point in time the 1st respondent has not taken the plea of lack of jurisdiction.

7. Considering the fact that the petitioner has challenged the orders within the limitation time and has been prosecuting the matter



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diligently and as the 1st respondent has not taken out the plea of lack of jurisdiction at the earliest point in time, the writ petition is dismissed giving liberty to the petitioner to approach the appropriate forum and the period taken in prosecuting these proceedings shall be excluded for the purpose of calculating the delay. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

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2. The Management of the Lakshmi Vilas Bank Limited, Now known as DBS Bank Limited, Corporate Office: "LVB House", No.4, Sardar Patel Road, Guindy, Chennai – 600 032.
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