

A ALLAHABAD BANK & ORS.

v.

KRISHAN PAL SINGH

(Civil Appeal No. 5808 of 2021)

B SEPTEMBER 20, 2021

[R. SUBHASH REDDY AND SANJIV KHANNA, JJ.]

Service Law – Dismissal – Monetary compensation in lieu of reinstatement – Respondent was Clerk-cum-Cashier in appellant-Bank – Burning incident of Bank records – Suspecting complicity of respondent, he was placed under suspension and disciplinary proceedings initiated against him – On completion of enquiry, respondent was dismissed from service – He raised industrial dispute – Industrial Tribunal-cum-Labour Court held that misconduct alleged against respondent was not proved, but a case was made out by the management of loss of confidence, and accordingly ordered payment of compensation of Rs.30,000/- in lieu of reinstatement – Respondent filed Writ Petition – High Court ordered reinstatement of respondent with all consequential benefits – On appeal, held: Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of respondent – Reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law – Considering that respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, ends of justice would be met by awarding him lump sum monetary compensation of Rs.15 lakhs – Labour Laws.

Partly allowing the appeal, the Court

HELD:1. The directions issued by the High Court for reinstatement were stayed by this Court. During the pendency of these proceedings, the respondent – workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief

granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, it is appropriate that ends of justice would be met by awarding lump sum monetary compensation. Accordingly, it is directed that payment of lump sum compensation of Rs.15 lakhs be made to the respondent, within a period of eight weeks. Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% per annum, till payment. [Para 8][207-D-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No.5808 of 2021.

From the Judgment and Order dated 25.04.2019 of the High Court of Allahabad, Lucknow Bench in Writ Petition (S/S) No.692 of 1998.

Rajesh Kumar Gautam, Anant Gautam, Nipun Sharma, Madhur Tewatia, Ravi Solanki, Advs. for the Appellants.

Rakesh Taneja, Ms. Jaikriti S. Jadeja, Advs. for the Respondent.

The Judgment of the Court was delivered by

R. SUBHASH REDDY, J.

1. Leave granted.

2. This appeal is preferred by the appellant – Bank, aggrieved by the Order dated 25.04.2019 of the High Court of Allahabad, Lucknow Bench, passed in Service Single No. 692 of 1998. By the aforesaid order, the High Court has quashed the award dated 07.10.1997, passed by the Central Government Industrial Tribunal–cum–Labour Court so far as it relates to refusal of reinstatement of the respondent with back wages and issued directions, directing the appellants to reinstate the respondent with all consequential benefits.

3. The sole respondent herein was appointed as Clerk-cum-Cashier in the appellant – Allahabad Bank on 23.09.1985 and his service was confirmed on 24.03.1986. During the year 1989, he was posted in Aurangabad Branch, District Lakhimpur Kheri, Uttar Pradesh. On 08.02.1989, there was fire accident in the Bank and an FIR was

- A registered with regard to burning incident of Bank records by unknown persons. Suspecting the complicity of the respondent, he was placed under suspension by order dated 13.02.1989 and disciplinary proceedings were initiated against him. Ultimately, on completion of enquiry, the respondent was dismissed from service vide Order dated 22.08.1991. The departmental appeal, preferred by him was rejected by Appellate Authority on 27.02.1992 and further, Mercy Appeal was also rejected vide Order dated 27.05.1992.

4. The respondent raised the industrial dispute and the same was referred to the Central Government Industrial Tribunal-cum-Labour Court, Kanpur in Industrial Dispute No. 98 of 1994. The Industrial Tribunal-cum-Labour Court has passed the Award dated 07.10.1997 and held that misconduct alleged against the respondent is not proved, but on the ground that a case is made out by the management of loss of confidence, has ordered payment of compensation of Rs.30,000/- in lieu of reinstatement. The respondent – workman, aggrieved by the award of the Industrial Tribunal-cum-Labour Court, seeking reinstatement with back wages, carried the matter to the High Court by way of Writ Petition in Service Single No. 692 of 1998. The High Court, by impugned Order dated 25.04.2019, has ordered reinstatement of the respondent with all consequential benefits. The said Order is subject matter of challenge in this Appeal. While issuing notice, vide Order dated 23.08.2019, this Court granted interim relief against the direction of reinstatement with back wages, ordered by the High Court.

5. Heard Mr. Rajesh Kumar Gautam, learned counsel appearing for the appellant – Bank and Mr. Rakesh Taneja, learned counsel appearing for the respondent.

6. Order of dismissal was passed by the Bank, alleging involvement of the respondent in the incident relating to burning of relevant Bank records. One Mr. Balak Ram was prime accused in the aforesaid incident, and the respondent being a friend of said Mr. Balak Ram, was suspected on the ground that one of the witnesses namely Mr. Ram Singh, MW-1, examined in the disciplinary proceedings, has deposed that Mr. Balak Ram and others assembled together on the date of incident. The Industrial Tribunal has found that though there was a strong suspicion, but there was no sufficient evidence to prove his misconduct to dismiss from service. The Industrial Tribunal has found that the Bank has lost confidence on the respondent and ordered payment of monetary compensation of Rs.30,000/- in lieu of reinstatement. When the said award was challenged before the High

Court, it has found that suspicion, however, high may be, can under no circumstances be held a substitute to legal proof. By further recording a finding that the appellants have not challenged the award passed by the Industrial Tribunal, has allowed the Writ Petition by directing reinstatement with all consequential benefits. A

7. In this case, it is to be noted that the respondent was appointed in the Bank as Clerk-cum- Cashier on 23.09.1985 and he was placed under suspension on 13.02.1989 and dismissed from service vide Order dated 22.08.1991. Including the suspension period, he was in Bank service for about six years before dismissal. Thereafter, he was unsuccessful before the departmental Appellate Authority and the Industrial Tribunal ordered payment of lump sum monetary compensation of Rs.30,000/- in lieu of reinstatement. B C

8. The directions issued by the High Court of Allahabad for reinstatement were stayed by this Court on 23.08.2019. During the pendency of these proceedings, the respondent – workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation. We accordingly direct payment of lump sum compensation of Rs.15 lakhs to the respondent, within a period of eight weeks from today. Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% per annum, till payment. D E F

9. This Civil Appeal is partly allowed. Order of the High Court dated 25.04.2019 stands modified to the extent indicated above. G