

ITEM NO.17 Court 5 (Video Conferencing) SECTION XIV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).4038/2021

(Arising out of impugned final judgment and order dated 27-11-2020 in CWP No. 3597/2020 passed by the High Court of Himachal Pradesh at Shimla)

STATE BANK OF INDIA & ANR.

Petitioner(s)

VERSUS

AJAY KUMAR SOOD

Respondent(s)

(WITH I.R. and IA No.33823/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 12-03-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.
Mr. Sanjay Kapur, AOR
Mr. Sambit Panja, Adv.
Mr. V.M. Kannan, Adv
Ms. Megha Karnwal, Adv

For Respondent(s)

UPON hearing the counsel the Court made the following
ORDER

1 The High Court of Himachal Pradesh, by its order dated 27 November 2020, affirmed the order of the Central Government Industrial Tribunal. The CGIT, while coming to the conclusion that the first charge of misconduct against the respondent was proved, interfered with the penalty of dismissal only on the ground that it was harsh and disproportionate to the misconduct. Hence, the penalty of dismissal was modified to that of compulsory retirement.

- 2 Mr P S Patwalia, learned Senior Counsel appearing on behalf of the petitioners, with Mr Sanjay Kapur, submits that the findings of the CGIT would indicate that the charge of misconduct involved a serious act of indiscipline. Mr Patwalia also urged that the other charges, namely, charges 2, 3, 4 and 5, also stand established.
- 3 Prima facie, in our view, a serious act of misconduct stands established from the evidentiary findings contained in paragraphs 16 and 17 of the award of the CGIT (Annexure P-9). We are inclined to issue notice for this reason and for an additional reason as well.
- 4 The reasons set out in the judgment of the Division Bench of the High Court dated 27 November 2020 dismissing the petition filed by the petitioners under Article 226 of the Constitution, span over eighteen pages but are incomprehensible. For this purpose, it is necessary to extract paragraphs 3,4,5 and 6 of the judgment of the High Court, which read as follows:
- “3. All the afore infirmities noticed in the impugned award, to, occur, in, Annexure P-18, remain neither contested nor any endeavor, is made by the learned counsel, appearing for the employer to scuttle all the legal effects thereof. Consequently, the afore apposite noticed infirmities, as, echoed in the impugned award, to occur in Annexure P-18, and, appertaining, to, affirmative conclusion(s), being made qua the workman, vis-à-vis, the apposite thereto charges drawn against him, do, necessarily acquire overwhelming legal weight, and, also enjoin theirs being revered.
4. Be that as it may, since the impugned award, is made, in pursuance to a petition filed, before the learned Tribunal, by the Workman, under Section 2-A, of the Industrial Disputes Act 1947, and, when after affording, the, fullest adequate opportunities, to the contesting litigants, to adduce their respective evidence(s), on the issues, falling for consideration, the learned Tribunal proceeded to make the impugned award, (i) thereupon the effect, if any, or the legal effect, of, Annexure P-18, inasmuch as, it containing evidence, in support of the conclusion(s), borne therein, does, emphatically, become(s) subsumed, within the canvas, and, contours, of, the evidence

adduced, respectively, by the workman, and, by the employer, before the learned Tribunal, (ii) unless evidence emerged through the witnesses', who testified before the learned Tribunal, and, upon theirs being confronted with their statement(s), previously made before the Inquiry Officer, and, its making unearthing(s), vis-à-vis, hence no credibility, being assigned, vis-à-vis, theirs respective testification(s), made before the learned Tribunal. However, a perusal, of, evidence, adduced before the learned Tribunal, both by the Workman, and, the employer, unveils, (iii) that the afore evidence, became testified, by all the witnesses concerned, rather with the fullest opportunity, being afforded to the counsel, for the workman, and, to the counsel for the employer, (iv) and, also unveils that the counsel, for, the employer, rather omitting to, during the process, of, his conducting their cross-examination, hence confront them, with their previous statement, recorded before the Inquiry Officer, for therethrough(s), his obviously attempting to, hence impeach their respective credibility(ies). In summa, hence the evidence adduced before the Tribunal concerned, alone enjoins its, if deemed fit, being appraised by this Court.



5. The learned Tribunal, had, upon consideration, of evidence adduced, vis-à-vis, charges No. 2, 3, 4, 5, 6, 7, 8 and 9, hence concluded, qua theirs, not therethrough, becoming proven, rather it made a conclusion, vis-à-vis, their being lack, of, cogent evidence, or their being want, of, adduction, of, cogent evidence, qua therewith, by the employer, and, obviously, returned thereon(s) finding(s), adversarial, to the employer. Consequently, hence the appraisal, of, evidence, adduced by the department/employer, vis-à-vis, the afore charges, does not, merit any interference, as reading(s) thereof, obviously, unfold qua the appraisal, of, evidence, adduced, vis-à-vis, the afore drawn charges, hence by the learned Tribunal, hence not, suffering from any gross mis-appraisal thereof, nor from any stain, of, non-appraisal, of, germane evidence, hence adduced qua therewith, by the department/employer.

6. The ire res-controversia, erupting interse the litigants, appertains, to findings, adversarial, to the workman, becoming returned upon charge No. 1. Though the learned counsel appearing for the workman, contends with much vigor, before this Court, that since the CCTV footage, does not vividly pronounce, qua the workman, tearing the apposite letter, thereupon findings, adversarial, to the workman, were not amenable, to be returned upon charge No. 1(supra). However, the afore made submission, before this Court, by the learned counsel for the workman, is, made without his bearing in mind, the further facet, vis-à-vis, the workman, in his cross-examination, making articulation(s), coined in the

phraseology, "No Branch Manager has dared to issue me letter prior to this". In addition, with the Workman, despite his coming into possession, of, the apposite letter, issued to him, by the Branch Manger, especially when no evidence, contra therewith, became adduced, by him, hence became enjoined, to dispel the factum, of, his not tearing it, rather ensure its production, before the Officer concerned. However, he failed to adduce/produce the afore letter before the Officer concerned, thereupon, dehors the CCTV footage, not graphically displaying his tearing the apposite letter, rather not cementing or filliping any conclusion, vis-à-vis, perse therefrom, any exculpatory finding, becoming amenable to be returned upon charge No. 1."

5 We are constrained to observe that the language in the judgment of the High Court is incomprehensible. Judgments are intended to convey the reasoning and process of thought which leads to the final conclusion of the adjudicating forum. The purpose of writing a judgment is to communicate the basis of the decision not only to the members of the Bar, who appear in the case and to others to whom it serves as a precedent but above all, to provide meaning to citizens who approach courts for pursuing their remedies under the law. Such orders of the High Court as in the present case do dis-service to the cause of ensuring accessible and understandable justice to citizens.

6 Since the High Court has affirmed the award of the CGIT, we have been able to arrive at an understanding of the basic facts from the order which was challenged before the High Court. From the record of the Court, more particularly the award of the CGIT, it emerges that though a serious charge of misconduct was held to be established against the respondent, it has been interfered with and the High Court has dismissed the petition under Article 226.

7 Issue notice, returnable in six weeks.

8Dasti, in addition, is permitted.

- 9 Till the next date of listing, there shall be a stay of the operation of the impugned judgment and order of the High Court dated 27 November 2020 and no coercive steps shall be taken against the petitioners on the basis of the award of the CGIT dated 9 July 2019.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER



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