

STATE BANK OF INDIA AND ORS.

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v.
HARBANS LAL

MAY 3, 2000

[V.N. KHARE AND S.N. PHUKAN, JJ.]

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Service Law :

Sastry Award—Paragraph 521(10)(b)—Bipartite Settlement/agreement dated 17.9.1984 between State Bank of India and All India SBI Staff Federation—Clause 12(iii)—Suspension—Clerk-cum-Cashier in State Bank of India—Misconduct—Suspension—Punishment—Stoppage of two increments and disallowed salary during period of suspension—Writ petition before High Court by employee praying to issue directions to Bank to pay full salary for suspension period in accordance with Sastry Award and to give all other benefits of increments, pay, revision, allowances etc.—No prayer for quashing the order of punishment—High Court holding order of suspension illegal and void on the assumption that as per Sastry Award no suspension order could have been passed before issuance of charge-sheet—Held, by clause 12(iii) of the Settlement, the expression ‘pending such inquiry’ in paragraph 521(10)(b) of Sastry Award was clarified and further modified to the effect that where disciplinary action is proposed or contemplated, an employee can be suspended and there is no need for issue of any charge-sheet—View taken by High Court not correct.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6479 of 1998.

From the Judgment and Order dated 10.3.98 of the Punjab and Haryana High Court in C.W.P. No. 7292 of 1997.

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Harish N. Salve, Dr. Rajeev Dhawan, Rajiv Kapur, Sanjay Kapur and Ms. Shubhra Kapur for the Appellants.

Bhupinder Kakar, Dinesh Verma and R.D. Upadhyay for the Respondent.

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The following Order of the Court was delivered :

The respondent herein is an employee of State Bank of India. On 3rd September 1982 he was appointed as a Clerk-cum-Cashier. It appears certain

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A acts of misconduct committed by the respondent came into light with the
result on 29th November, 1990 he was suspended pending contemplated
enquiry. In the year 1996, respondent filed a petition under Article 226 of
the Constitution of India before the Punjab and Haryana High Court challeng-
ing the order of suspension and for a direction for payment of salary for the
B period when he was placed under suspension. The said writ petition was
dismissed. However, a direction was issued to the appellant-Bank to complete
the disciplinary enquiry before 31st August, 1996. Accordingly, the depart-
mental enquiry was concluded and an order was passed by the disciplinary
authority stopping three increments and also disallowing salary during the
C period of suspension. The respondent thereafter preferred an appeal before
the appellate authority against the aforesaid punishment. The appellate author-
ity partly allowed the appeal to the extent that instead of three, two increments
were allowed to be stopped. The respondent thereafter filed a second petition
under Article 226 of the Constitution. The prayer contained in the writ
petition was to issue a direction to the appellant-Bank to pay full salary for
D the suspended period in accordance with the provisions of Sastry Award as
adopted by the appellant-Bank and for issue of further direction to the
appellant-Bank to give all the benefits of increments, pay, revision, allowance
etc., as admissible under the Rules. It is to be noted that in this writ petition
there was no prayer for quashing the order of punishment as well as the
E appellate order to the extent relief was refused to the respondent. However,
the High Court took the view that in view of Sastry Award as adopted by
the appellant-Bank, no order of suspension could have been issued before
issue of the charge-sheet. It is only on this premise the High Court found that
the order placing the respondent under suspension was illegal and void and,
therefore, the respondent was entitled to salary during the period he remained
F under suspension before the issue of charge-sheet. It is against the said
decision, the appellant is in appeal before us.

The short question that arises in this case is whether the appellant-Bank
could have suspended the respondent before issuing a charge-sheet as per
Sastry award. Paragraph 521(10)(b) of the Sastry Award reads as under :

G “Pending such inquiry he may be suspended, but if on the conclusion
of the enquiry it is decided to take no action against him he shall be
deemed to have been on duty and shall be entitled to the full wages
and allowances and to all the other privileges for the period of
H suspension; and if some punishment other than dismissal is inflicted

the whole or part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a correspondent portion of the wages, allowances, etc.”

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Subsequently, paragraph 521(10)(b) was clarified/modified by a bipartite settlement/agreement dated 17th September, 1984 between State Bank of India and All India SBI Staff Federation under Section 2(p) and Section 18(1) of the Industrial Disputes Act, 1947, read with Rule 58 of Industrial Disputes (Central Rules). Clause 12(iii) of the aforesaid settlement reads as under :

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“(iii) Paragraph 521(10)(b) of the Sastry Award has been partially modified. The words “pending such enquiry” were creating confusion as to whether an employee can be suspended before a charge sheet is served. Inclusion of the words “or initiation of such enquiry” clarifies the position to the effect that an employee, against whom disciplinary action is proposed or contemplated, can be suspended. However, it is advisable to minimise the time lag between the date of suspension and the date of issue of charge-sheet.”

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By the aforesaid Clause 12(iii), the expression ‘pending such enquiry’ in paragraph 521(10)(b) was clarified and further modified to the effect that where the disciplinary action is proposed or contemplated, an employee can be suspended and there is no need for issue of any charge-sheet. This being the legal position, the appellant-Bank was within its rights and power to suspend the respondent when a departmental enquiry was contemplated against him.

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We, therefore, find that the view taken by the High Court was not sustainable in law. The order and judgment under appeal is set aside. The appeal is accordingly allowed. No costs.

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R.P.

Appeal allowed.