

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF NOVEMBER, 2021

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT APPEAL NO.952 OF 2021(L-RES)

BETWEEN:

SRI K SATISHCHANDRA SHETTY
S/O LATE K T SHETTY
AGED 61 YEARS,
KAMALA NIVAS, MAJILE COLONY
JAPPUR SEMINARY
MANGALURU - 575 002

...APPELLANT

(BY SRI.CHIKKANGUDAR L S, ADVOCATE)

AND:

UNION BANK OF INDIA
ZONAL OFFICE, CHANDRAKIRAN BUILDING
NO.10, KASTURBA ROAD
BENGALURU - 560 001
REPRESENTED BY ITS CHIEF MANAGER-HR
SRI K S VENKATESH

...RESPONDENT

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED IN THE WRIT PETITION NO. 47420/2015 DATED 20.01.2021.

THIS APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **SACHIN SHANKAR MAGADUM J.**, DELIVERED THE FOLLOWING:

JUDGMENT

The captioned appeal is filed by the respondent in the writ petition questioning the order dated 20.01.2021 passed by the learned Single Judge confirming the penalty of dismissal imposed by the Disciplinary Authority.

2. The facts leading to the case are as under:

The appellant is an employee of the respondent/Bank and he was charge sheeted for having misappropriated customers money. In the said enquiry, the appellant herein voluntarily admitted the charges. Though the appellant admitted the charges, the Enquiry Officer, in all fairness, afforded one more opportunity to think over the admission and revert back after an hour. However, the appellant did not retract from his earlier admission and therefore, the Enquiry

Officer submitted his report and the Disciplinary Authority imposed penalty of dismissal from service by order dated 07.04.1999. The said order was challenged in an appeal which was also dismissed by the Appellate Authority on 12.11.1999.

3. The respondent/Bank after four years sent a communication to the workman to settle his terminal benefits and at this juncture, the appellant workman raised a dispute before the Assistant Labour Commissioner and since the conciliation proceedings ended in failure, the Government referred the dispute for adjudication. The Tribunal allowed the reference directing reinstatement with backwages, continuity of service and all consequential benefits.

4. The learned Single Judge having perused the records found that the conclusion arrived at by the Tribunal is contrary to the clinching evidence on record and therefore, was of the view that the finding arrived at by the Tribunal in

ordering reinstatement suffers from serious infirmity and is palpably erroneous. The learned Single Judge has culled out the written submissions submitted by the appellant herein to the Department wherein he has admitted his guilt in unequivocal terms. Having referred to the said admission, the learned Single Judge was of the view that the order of reinstatement passed by the Tribunal is palpably erroneous and contrary to the evidence on record. The learned Single Judge by placing reliance on the dictum laid down by the Hon'ble Apex Court in the case of ***Deputy General Manager (Appellate Authority) and Others vs. Ajai Kumar Srivastava***¹, allowed the writ petition and set aside the impugned order dated 19.01.2007 passed by the Central Government Industrial Tribunal-cum-Labour Court and restored the penalty of dismissal from service imposed by the respondent/Bank.

¹ 2021 SCC Online SC 4

5. Heard the learned counsel appearing for the appellant. Perused the records.

6. From the records what can be gathered is that the person who had lodged the complaint had opened an Account in the respondent/Bank at the instance of the appellant herein and the customer used to handover cash to the appellant herein at his residence to credit the same to S.B. Account. The appellant herein has virtually exploited the trust that was reposed by the customer who appeared to be acquainted with the appellant herein. Coupled with this factual matrix, if the explanation which is offered by the appellant is examined, it is evident that the appellant was under financial distress and therefore, he was compelled to do the fraudulent act of withdrawal from the savings Account of Mr. Mumtaz Yuna Kunhi Monu and therefore, issued forged fixed deposit receipts.

7. If these aspects are taken into consideration, we are not inclined to interfere with the order under challenge passed by the learned Single Judge. Frauds carried out by bank employees has now become a global problem. Cash theft such as skimming customers cash deposit has become rampant and the employees fraud or occupational fraud is likely the largest and most prevalent threat faced by financial institutions. Therefore, there has to be zero tolerance as a fraudulent employee constitutes an attack against the organization from within, by the very people who are entrusted to protect its assets and resources. It is no exaggeration to say that the greatest fraud risk that bank faces walks through their doors every morning and sits down to work. Therefore, any fraud, however negligible, associated with financial institution has to be viewed very seriously and dealt with an iron hand. Therefore, we do not find any exception so as to interfere with the order passed by the learned Single Judge. The grounds urged in the writ appeal

would not displace the reasons and conclusions arrived at by the learned Single Judge.

8. For the foregoing reasons, we proceed to pass the following:

ORDER

The writ appeal is devoid of merits and the same stands accordingly dismissed.

The pending interlocutory applications, if any, stand disposed of.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

CA