

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE UMESH M ADIGA

WRIT PETITION NO.51262 OF 2019 (L-RES)

BETWEEN:

CANARA BANK (E-SYNDICATE BANK)
A NATIONALIZED BANK CONSTITUTED
UNDER THE BANKING COMPANIES
(ACQUISITION AND TRANSFER OF
UDNERTAKINGS), ACT,1970,
HAVING ITS HEAD OFFICE AT
NO.112, J C ROAD,
BENGALURU- 560 002, AND
CRICLE OFFICE AT MANIPAL,
UDUPI DISTRICT,
REP.BY ITS ASSISTANT GENERAL MANAGER(HR)
MR.SHASHIDHAR AITHAL.

...PETITIONER

(BY SRI. T.P.MUTHANNA, ADVOCATE)

AND:

THE GENERAL SECRETARY,
DHARWAD DISTRICT BANK
EMPLOYEES ASSOCIATION,
NO.9, CORPORATION BUILDING,
BROADWAY,
HUBLI-580 020.

...RESPONDENT

(BY SRI.VEDA MURTHY M.V., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN C.R.NO.131 OF 2007 FROM THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BENGALURU AND DECLARE THAT THE REFERENCE MADE BY THE CENTRAL GOVERNMENT IN REFERENCE IN C.R.NO.131 OF 2007 TO THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BENGALURU, IS ILLEGAL, WITHOUT JURISDICTION AND CONTRARY TO THE PROVISIONS OF SEC. 10 OF THE INDUSTRIAL DISPUTES ACT, 1947, AND THE PROCEEDINGS PURSUANT TO SUCH REFERENCE ARE NULL AND VOID AND ETC.

THIS PETITION, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 25.10.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE UMESH M ADIGA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE UMESH M ADIGA)

This writ petition is filed under Article 226 and 227 of Constitution of India by the second party-employer, calling in question the correctness of the judgment and award dated 26.07.2019, passed by the Central Government Industrial Tribunal-cum-Labour Court, Bengaluru (for short, 'Labour Court'), in case No.CR.131/2007, seeking for the following reliefs :

"(a) Call for records in C.R.No.131 of 2007 from the Central Government Industrial Tribunal-cum-Labour Court, Bengaluru.

(b) declare that the Reference made by the Central Government in Reference in C.R.No.131 of 2007 to the Central Government Industrial Tribunal-cum-Labour Court, Bengaluru, is illegal, without jurisdiction and contrary to the provisions of Section 10 of the Industrial Disputes Act, 1947, and the proceedings pursuant to such reference are null and void;

(c) issue a writ of certiorari or any other appropriate writ, order or direction and quash the Award dated 26.07.2019 in C.R.No.131 of 2007 passed by the Central Government Industrial Tribunal-cum-Labour Court, Bengaluru, and produced as Annexure-`A' and grant such other and further reliefs deemed fit under the circumstances."

2. The brief facts of the case as per the materials available on record are that, one H.S.Chandrasekhar Pandit (hereafter referred to as `an employee'), was working as a Clerk in Syndicate Bank, Basarikatte Branch, Shivamogga, at the time of incident. He is a member of the first party, i.e., Labour Union. The said employee

availed a housing loan at a concessional rate admissible to an employee of the Bank, for purchasing a site, as well as putting up construction thereon. The said loan was granted according to the terms and conditions of the agreement and it was also agreed between the employee and the Bank that the amount would be released in stages based on the progress of the house construction made by the employee.

3. It is the further case of the Bank that the employee purchased the site and amount of the said site was directly paid to the owner of the land. As per the terms of the agreement, the employee had to furnish a certificate from the concerned Civil Engineer regarding progress in the construction. The employee obtained forged and fabricated certificate of a Civil Engineer-cum-Contractor and he had also forged the signature of Manager of Syndicate Bank, Hindupura Branch, stating regarding progress in the construction of the said building and with the help of the said forged documents, from time to time, availed installments of the said loan amount.

But in fact, he had not constructed the building above the plinth level.

4. The second party-Bank came to know that the said documents were forged and falsely created just to avail additional loan/instalments. On enquiry with the employee, he confessed his guilt and admitted that he had created the said documents to get the installment of the loan amount and he has also stated that he utilized the said amount of loan for performing marriage of his sister who was depending upon him.

5. The said act of an employee was a grave misconduct and hence, the Bank proceeded to initiate a disciplinary enquiry against the employee. The Bank had issued charge sheet dated 28.12.1990, calling upon the employee to furnish explanation. It is stated that the employee did not file any counter or explanation to the articles of charge supplied to him. Thereafter, Bank decided to hold a disciplinary enquiry and appointed an Enquiry Officer.

6. The Enquiry Officer held enquiry and recorded the evidence of witnesses on behalf of the Bank. The said witnesses were not cross-examined by the employee and even he has not participated in the said disciplinary proceedings. The Enquiry officer after conclusion of the enquiry, submitted his report dated 04.10.1991 to the Disciplinary Authority. The Disciplinary Authority forwarded the report of Enquiry Officer to the employee and called upon for his submissions, if any, to the said report.

7. On the basis of enquiry report, the Disciplinary Authority issued second show cause notice to the employee and gave an opportunity of personal hearing in this regard on 28.11.1991 at 11.00 a.m. in the Zonal Office of the Bank at Bengaluru. It is alleged by the Bank that on that day, employee appeared before the Disciplinary Authority and made his submissions and during personal hearing, he also admitted the forgery committed by him and requested for time to clear the

housing loan in full with a commercial rate of interest and requested for reduction of punishment proposed by the Disciplinary Authority.

8. The Disciplinary Authority considering the gravity of the misconduct and also considering the report of the Enquiry Officer, accepted the same and imposed the penalty of dismissal from service of the employee from the Bank with immediate effect by order dated 18.02.1992.

9. The employee preferred an appeal against the said order passed by the Disciplinary Authority before the Appellate Authority i.e., General Manager (P), of the Bank. It is the contention of the Bank that, even before the Appellate Authority, employee submitted a letter signed by him dated 05.03.1992, admitting that he had availed the loan to construct the house, but he had not constructed beyond the plinth level and utilized the proceeds of the housing loan to perform the marriage of his sister. The Appellate Authority by its order dated

07.04.1992, dismissed the said appeal and confirmed the punishment imposed on the employee.

10. Thereafter, employee through Union, made representation to the Central Government and the Central Government considering the representation of the Union, made reference under Section 10 of the Industrial Dispute Act, 1947 (for short, 'I.D.Act'), to the Labour Court for considering the reference.

11. The first party-Labour Union denied the contents of the writ petition. According to the Union, no opportunity was given to the employee either to appear in person or prosecute the disciplinary proceedings effectively and even without proper service of notice on the employee, the Enquiry Officer proceeded with the matter *ex parte* and passed the order. Therefore, the principles of natural justice were not followed.

12. The records available reveal that the Labour Court on the basis of the rival contentions of the parties, framed a preliminary issue as,

" Whether the domestic enquiry conducted by the second party against the first party was fair and proper?"

13. The Labour Court after considering the contentions of both the parties, held that the domestic enquiry conducted by the second party against the first party was not fair and proper and permitted the second party to lead evidence afresh on merits in order to justify its action taken against the employee. The said order dated 10.04.2017 passed by the Labour Court, was not challenged by the second party-Bank, and it had accepted the said order. Thereafter, the Labour Court recorded the evidence of the second party-Bank. Before the Labour Court also, employee did not lead evidence.

14. The Labour Court after hearing both the parties and assessing the available materials on record, by the impugned judgment and Award dated 26.07.2019 held that the second party Bank was unable to prove the charges levelled against employee and accordingly accepted the reference and passed the following order:

" The 2nd party is directed to pay monetary compensation to the 1st party workman Sree H.S. Chandrasekhar at the rate of 60% of his back wages from the date of his dismissal from service till the date he attained superannuation within 6 weeks from the date of publication of the Award in the official Gazette, failing which, the amount shall carry future interest at the rate of 6% per annum. "

The said award passed by the Labour Court was notified by the Central Government in the Gazette of India dated 06.08.2019 and the same is challenged in the present writ petition.

15. We have heard the arguments of both the sides.

16. The contention of the learned counsel for the petitioner is that the employee himself has given a letter to the Bank accepting his guilt and also he has stated that the loan given to him was utilized for the purpose of performing marriage of his dependent sister and he has also undertaken that he would repay the said loan amount. The said materials were available on record. However, the Labour Court did not consider the said

admissions and erroneously held that the Disciplinary Authority was unable to prove the charges levelled against an employee. The admission of guilt is a best evidence and when an admission is made, there was no need of examining the witnesses to prove the said contention.

17. Learned counsel for the petitioner further contended that, whatever act done by the employee of forging of documents, as well as giving false materials to the employer-Bank, certainly amounts to grave misconduct. The Bank runs its business on the basis of trust and faith of the people. If its employee play fraud on the Bank and misused the money of the Bank, then in all circumstances, such employee deserves to be punished. Hence, punishment given by the Disciplinary Authority was just and proper. The Labour Court did not consider these facts and erroneously allowed the reference. The said findings of the Labour Court is erroneous and hence, prays to set aside the same.

18. The learned counsel for the Union vehemently contended that, in any judicial proceedings or *quasi-judicial* proceedings, following the principles of natural justice is must. The Bank has not produced any piece of material to prove that it had served the copy of charge sheet on the employee and it had also not produced any materials to show that notice of enquiry alleged to be issued by the Enquiry Officer was served on the employee. It was as good as an *ex parte* enquiry conducted by the Enquiry Officer and he submitted enquiry report to the Disciplinary Authority. The Disciplinary Authority also accepted it without enquiring the employee and passed order of dismissal. The employee did not manipulate any records and there were no materials before the Labour Court that he had forged the signature of Contractor/Civil Engineer and Manager of the Bank of Hindupura Branch. If there were any such materials, the Bank ought to have produced the same before the Labour Court. The Labour Court in its earlier order held that enquiry conducted by the Bank was not fair and proper and that order was

accepted by the Bank. When such an order was accepted and not challenged, it is as good as the entire enquiry proceedings were not in accordance with law. In view of the same, the alleged pleading guilty by the employee also was not proved. The Labour Court on the basis of materials placed on record, rightly held that the charges levelled against employee were not proved.

19. The learned counsel for the respondent further argued that, it is pertinent to note that entire file said to be maintained by the Enquiry Officer and Disciplinary Authority were not at all placed before the Labour Court and that was noticed in one of its order by the Labour Court. The contentions of the Bank that the said entire file was misplaced while shifting its office is not believable. Just to victimize an employee, false materials were created by the Bank and he was illegally dismissed from the service. The said employee is suffering from severe diseases/ailment, including hemiparesis. He is penniless and aged about 75 years as of now. It is also contented that he lost his son and therefore, he filed an application

for release of the amount deposited by the Bank and for that also, the Bank did not agree. The Labour Court has rightly accepted the reference and passed the impugned order. There is no illegality in the said findings.

20. The learned counsel for the respondent further stated that in this writ petition, this Court cannot re-appreciate the evidence. It was to consider whether the findings of the Tribunal is proper and in accordance with law. Therefore, there are no materials placed on record by the Bank to show that the procedures followed by the Labour Court is not in accordance with the law or the findings given by the Labour Court is not in accordance with the law. Therefore, prayed to dismiss writ petition.

21. It is not in dispute that after hearing both the parties the Labour Court held that the enquiry was not proper and fair and it was against the principles of natural justice, therefore, permitted the Bank/second party to lead evidence. That order was not challenged by the Bank and it has accepted that enquiry done by it against its

employee was not fair and proper. Thereafter, the second party-Bank had led the evidence before the Labour Court and produced the materials.

22. In the impugned judgment/award, the Labour Court has observed that the Bank had not produced any materials, records, or original documents or file pertaining to the enquiry proceedings held against an employee. This fact is also fatal to the enquiry proceedings. The contention of the Bank was not accepted by the Labour Court that the records pertaining to this case specifically was misplaced while shifting its office. It is also pertinent to note that, without the original documents, one of the Manager of the Bank/responsible officer of the Bank, has endorsed on the xerox copy as a 'true copy' and there was no explanation in this regard by the Bank before the Labour Court.

23. The main allegation against the employee was that he created the documents and forged the signature of the Contractor, as well as Manager of the Syndicate Bank,

Hindupura Branch, and produced them before the Bank for release of installments of the loan without making any progress in the construction of the building. The employee had availed special kind of loan, but not raised the construction above the plinth level and thereby he played fraud on the Bank. When a fraud is alleged against an employee, it is the duty of the Bank to produce sufficient materials to prove that fraud. The enquiry proceeding is nothing, but a *quasi-criminal* proceedings and it is the bounden duty of the Management of the Bank to prove the guilt of the delinquent employee by placing sufficient materials. Even where admission of guilt is alleged, the employer shall produce relevant documents in this regard containing admission and shall prove them before the Labour Court.

24. The Bank had not produced the said forged documents before the Labour Court and it had not examined the concerned Engineer or the Manager of the Hindupura branch of Syndicate Bank to prove that they had not signed on the said documents. It is not reported

as to whether such persons really exist or are fictitious. The Bank had not examined the Manager of the Bank of Hindupura branch, to prove that he had not issued the said letter and it was a created document by the employee. Therefore, the Labour Court rightly held that the said allegation of creation or forging of signature of a Civil Contractor, as well as a Manager of the Bank, was not proved. There is no reason to hold that the said finding of the Tribunal is illegal or perverse.

25. The repeated contention of the learned counsel for the petitioner is that the employee himself has pleaded guilty and he has stated that he has misused the amount of loan given for construction of the building and diverted it to perform the marriage of his dependent sister. This fact was denied by the employee while conducting the litigation before the Labour Court. To prove the alleged admission, no relevant witnesses were examined and no documents were produced. Labour Court was also not persuaded to believe the said contention. Under these circumstances, the contention of the Bank that since

employee pleaded guilty and accepted his mistakes, hence, it had not examined any other witnesses, is not tenable.

26. The second party-Bank contended that the employee played fraud on the Bank. As discussed above, the said fraud was not proved before the Labour Court.

According to the Bank, whenever any progress is made in the construction and before release of the installment of a loan to the borrower, it was a duty of the Manager of the Bank to physically verify the said building and thereafter, release the amount. If really the Manager had performed his part of the duty, then he would have prevented the alleged fraud of the employee. It clearly shows that the said Manager had not performed his duty and the Bank has not taken cognizance of the said mistake. There is no explanation in this regard by the Bank. It leads to a doubt alleged fraud played by the employee.

27. It was repeatedly submitted by the learned counsel for the first party-Union that the Bank had released the amount for construction of the building and it had been deducting installments/EMI from the salary of the employee. After dismissing him from the service, the Bank has taken possession of the land and building and auctioned it and recovered its dues. There was no financial loss to the Bank from the alleged diversion of the funds by the employee. Under these circumstances, the Labour Court was justified in making award in favour of workman.

28. During the course of the arguments, the learned counsel for petitioner had produced the copy of the 'bipartite agreement'. As per the said agreement, the incident alleged in the present case does not come within the category of 'major misconduct'.

29. Looking at all the facts and circumstances of the case, the Labour Court has rightly held that Bank had failed to prove the charges levelled against its employee i.e., Mr.H.S.Chandrasekhar Pandit and we do not find any

reason to interfere in the said findings. The procedures followed by the Labour Court are in accordance with the law and there is no illegality in the said procedures followed by the Labour Court. The employee is victimised by the concerned without collecting materials. In view of these reasons, the writ petition deserves to be dismissed with costs.

Accordingly, the writ petition is ***dismissed*** with costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(UMESH M ADIGA)
JUDGE**

bk/