

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5723 OF 2008

BANK OF INDIA AND ORS.

APPELLANT (s)

VERSUS

RAMESH RAGHUNATH CHAVAN

RESPONDENT (s)

WITH

CIVIL APPEAL NO.5724 OF 2008

O R D E R

We have heard learned counsel for the parties in detail.

The respondent (Ramesh Raghunath Chavan) was working as a Sepoy/Peon in Sadar Bazar Branch, Solapur of the Bank of India (appellant).

On 10th January, 1994, the appellant - Bank issued a circular with regard to the use of charge cards. Among the do's and dont's mentioned in the circular were that the charge card holder should not create an overdraft and if he does so and if he is an employee of the Bank, then he would be liable for disciplinary action.

The respondent, being aware of this circular, applied for a charge card which was given to him by the Bank. However, notwithstanding the instructions given in the circular, the respondent created overdrafts to the extent

of about Rs.1,00,000/- (Rupees one lakh only) during the period from 17th December, 1995 to 21st April, 1996. The overdrafts were created through 12 transactions.

Under these circumstances, a departmental inquiry was held against the respondent and he was found guilty of the allegations made against him and was dismissed from service. The respondent preferred a departmental appeal, but that was dismissed by the appellate authority.

Feeling aggrieved, the respondent preferred a writ petition which was heard by the Division Bench of the Bombay High Court. The High Court passed an order dated 14th February, 2005 which is impugned in these appeals.

The High Court held that the creation of overdrafts by the respondent would not amount to misconduct and, therefore, set aside the order of dismissal and directed the reinstatement of the respondent but with 25% back wages.

Feeling aggrieved by the High Court, both the respondent as well as the appellant - Bank have preferred appeals in this Court.

Having heard learned counsel for the parties, we are of the view that since the respondent was a Peon and the facility of a charge card does not now exist, there is no possibility of the respondent repeating the offence that he has committed. We are also told that during the

period when the disciplinary proceedings were being held against the respondent, he was not placed under suspension but he continued to work and in fact his salary was being deducted towards adjustment of the overdrafts that had been created. Learned counsel for the respondent says that an amount of about Rs.60,000/- has been adjusted against the overdrafts created by the respondent.

We are of the opinion that under these facts and circumstances particularly the fact that the respondent was not even placed under suspension during the period of the departmental inquiry, the punishment of dismissal from service is quite disproportionate. Since the charge card facility has been discontinued, there is no possibility of the respondent misusing the facility. Even otherwise, the respondent is only a Peon with the Bank and has no access to its funds which could be misappropriated.

Therefore, we are of the opinion that the appeal filed by the Bank (Civil Appeal No.5723 of 2008) does not merit any interference and it is accordingly dismissed.

Similarly, since there is a misuse of the charge card facility by the respondent, the respondent is not entitled to the benefit of full back wages for the period he was out of employment from the date of his dismissal

till the judgment was delivered by the Bombay High Court. In other words, in terms of the order passed by the High Court, the respondent will be entitled to 25% of back wages only. For the period post the judgment of the High Court the respondent is not entitled to any back wages since there was a misuse of the charge card. The respondent will, however, be entitled to immediate reinstatement.

The amount outstanding against the overdrafts created by the respondent will be recovered by the Bank without interest from the 25% back wages that has been awarded to him by the High Court.

The appeal filed by the respondent (C.A. No.5724 of 2008) stands disposed of.

.....J.
(MADAN B. LOKUR)

.....J.
(S.A. BOBDE)

NEW DELHI
AUGUST 26, 2015

ITEM NO.104

COURT NO.8

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).5723/2008

BANK OF INDIA AND ORS.

Appellant(s)

VERSUS

RAMESH RAGHUNATH CHAVAN

Respondent(s)

(With appln. (s) for may refer to remarks and office report)

WITH C.A. No. 5724/2008

(With Office Report)

Date : 26/08/2015 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Sanjiv Sen, Sr. Adv.
Mr. Alok Sinha, Adv.
Mr. Rajiv Shankar Dvivedi, Adv.
Mr. Anupam Lal Das, AOR

Mr. Naresh Kumar, AOR

For Respondent(s) Mr. Vinay Navare, Adv.
Mr. Satyajeet Kumar, Adv.
Mr. Naresh Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal filed by the Bank (Civil Appeal No.5723 of 2008) does not merit any interference and it is accordingly dismissed in terms of the signed order.

The appeal filed by the respondent (C.A. No.5724 of 2008) stands disposed of.

(SANJAY KUMAR-I)
COURT MASTER

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)