

C.A.No. 1118 OF 1999
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 ~ ITEM NO.111 COURT NO. 7 SECTION XV

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1118/1999

Sushil Kumar Verma .. Appellant (s)
 Vs.

Union of India and Ors. .. Respondent(s)

DATE : 1.3.2001 : This/These matter (s) was/were
 called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
 HON'BLE MR. JUSTICE SHIVARAJ V PATIL

For Appellant (s) : Ms. Sandhya Goswami, Adv.
 Mr. MPS Tomar, Adv.
 Mr. P.K. Chakravarty, Adv.

For Respondent (s) : Mr. Ravindra Bhatt, Adv.
 Mr. V.K. Rao, Adv.
 Mr. Madhu Sikri, Adv.

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

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The appeal is allowed. There shall be no order as to
 costs.

.SP1
 Charanjit [Om Prakash]
 Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1118/1999@@
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Sushil Kumar Verma .. Appellant

Vs.

Union of India and Ors. .. Respondents

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A complaint was lodged on 21.4.1988 against the appellant by one Lakhan Singh who is a customer of the Bank that he went to the Bank at 4.00 p.m. on 31.8.1987 to deposit a sum of Rs. 3500/- and gave the said amount to the appellant who also belongs to his village to deposit the said money. However, he had not deposited the said amount and when he got a notice from the Bank as to why he has not deposited the amount he made the complaint. Later on the said complaint was withdrawn. However, the Bank initiated disciplinary proceedings against the appellant and after holding inquiry came to the conclusion that he is guilty of the charges framed against him in not having deposited the amount given by Lakhan Singh in due time and therefore withheld four increments with cumulative effect. Against that action a dispute was raised before the Industrial Tribunal-cum-Labour Court. The Labour Court on examination of the material before it, came to the conclusion that the inquiry held by the respondents is vitiated and called upon the Bank to adduce evidence in support of its case. The Bank examined its then Manager who

stated that he had received a complaint from Lakhan Singh and showed a receipt also in the handwriting of the appellant for having received a sum of Rs.3500/- and that the appellant deposited the sum of Rs. 3500/- on 23.4.1988. However, in the cross examination it is stated that on 23.4.1988 Lakhan Singh came to withdraw the complaint and deposited Rs. 3500/-.

The Labour Court felt that the complaint made by Lakhan Singh having been withdrawn, adequate proof was required as to what charge is levelled against the Appellant as to misappropriation of the said amount of Rs. 3500/- and that charge was not established in the absence of evidence of Lakhan Singh and set aside the action taken by the Bank.

A writ petition was carried against the award and the High Court proceeded on a wrong premise that the Labour Court had held that the inquiry was fair but the findings recorded by the Inquiry Officer were perverse and therefore, took the view that the findings recorded in the departmental inquiry were binding particularly in the light of the fact that there

is some evidence to support the case.

We have noticed that on the other hand the departmental inquiry was held to be vitiated and therefore independent evidence had to be led before the Labour Court. Such evidence was only in the shape of the examination of the

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Bank Manager and the documents regarding complaint given by Lakhan Singh and its subsequent withdrawal. In the light of the statement made by the Bank Manager in the course of his cross examination that Lakhan Singh deposited the said amount of Rs. 3500/-when he came to withdraw the complaint belies the fact alleged in the charge. Lakhan Singh was not examined to support the case of Bank who alone could have thrown proper light on the ambiguity arising on account of contradiction between answers given by the Bank Manager in examination in Chief and cross examination as to the deposit of money. Therefore we think the Labour Court was justified in the conclusion it reached and the High Court ought not to have independently appraised to the evidence on record. In the circumstances we find the order made by the High Court needs to be set aside and that of the Labour Court award must be restored. The appeal is accordingly allowed. However, there shall be no order as to costs.

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[S. RAJENDRA BABU]@@
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[SHIVARAJ V PATIL]@@
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New Delhi,@@
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March 1, 2001 @@
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