

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 24TH MARCH 2010 / 3RD CHAITHRA 1932

OP.No. 14328 of 2000(E)

PETITIONER(S):

STATE BANK OF TRAVANCORE, HEAD OFFICE,
TRIVANDRUM REPRESENTED BY ITS DEPUTY
GENERAL MANAGER (P&HRD).

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT(S):

1. INDUSTRIAL TRIBUNAL, KOLLAM.
2. SHRI.JAMES C.MATHEW, NISHA BHAVAN,
SFS SEMINARY ROAD, ETTUMANOOR.
3. GOVERNMENT OF INDIA REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
MINISTRY OF LABOUR, NEW DELHI.

R2 BY ADV. T.M.RAMAN KARTHA
SMT.MANJU R.KARTHA
R3 BY ADV. SRI.K.PRAVEEN KUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 24/03/2010, ALONG WITH OP NO. 35443 OF 2000 THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.23130 OF 2000 IN OP NO.14328 OF 2000 E

//DISMISSED//

24.3.2010

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE AWARD PASSED BY THE INDUSTRIAL
TRIBUNAL DATED 15.12.1999 IN I.D.NO.7/97.

/TRUE COPY/

THOTTATHIL B. RADHAKRISHNAN, J.

.....
O.P.NOs.14328 & 35443 OF 2000
.....

Dated this the 24th day of March, 2010

J U D G M E N T

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1. These two writ petitions are filed challenging the award of the Industrial Tribunal. The employer Bank placed its employee under suspension and took disciplinary proceedings on grounds relating to alleged manipulation of documents in the course of banking business. The disciplinary proceedings ended in finding the delinquent guilty. He was accordingly dismissed from service. On appropriate reference in terms of Section 10 of the Industrial Disputes Act, 1947, the Industrial Tribunal, after considering the materials, came to the conclusion that the disciplinary proceedings are valid, not vitiated on any count and that the findings are proper. However, acting under Section 11A of the ID Act, the Tribunal converted the punishment of removal from service to be one of discharge. The employer Bank has filed OP.14328/2000 challenging the

action of the Tribunal in converting the punishment to be one of discharge. The employee has filed OP.35553/2000 challenging the refusal of the Tribunal to interfere with the disciplinary proceedings.

2. Having considered the materials of record and having heard the learned counsel for the parties, I don't find any irregularity or illegality in the Tribunal having confirmed the disciplinary proceedings, it having been held in accordance with the rules of procedure, natural justice and applicable laws. In so far as the modification of the punishment from one of removal from service to discharge is concerned, it needs to be noticed that the Tribunal has given reasons for bringing in such modifications and the facts and circumstances, including the age of the delinquent, would have persuaded the Tribunal to take such an approach on facts, though the allegations and charges levelled and found in the disciplinary proceedings related to banking business. With the passage of time of more than 10 years and taking

into consideration the entire materials on record, I do not find it necessary for this Court to interfere in exercise of its visitorial jurisdiction under Article 226 of the Constitution since the decision of the Industrial Tribunal does not demonstrate any manifest injustice, either to the employer bank or the employee. Thus, balancing the scales of justice, it is seen that both these writ petitions are only to be dismissed.

In the result, these writ petitions are dismissed leaving the parties to suffer their respective costs.

Sd/-

**THOTTATHIL B. RADHAKRISHNAN,  
JUDGE.**

rkc/kkb.