

(1994) 11 KAR CK 0027
In the Karnataka High Court
Case No : W.A. No. 2594 of 1994

D. Padmanabhudu

APPELLANT

Vs

Bank of India and Another

RESPONDENT

Date of Decision : 15-11-1994

Acts Referred:

Industrial Disputes Act, 1947 — Section 11 A

Citation : (1995) 1 LLJ 1076

Hon'ble Judges : G.T. Nanavati, C.J.;N.D.V. Bhat, J

Bench : Division Bench

Judgement

G.T. Nanavati, C.J.—It is not in dispute that the appellant while working as Account Clerk in the 1st respondent-Bank misappropriated about Rs. 4,000/-. The amounts were paid by the customers to the Bank for the purpose of depositing them in their respective accounts. Instead of depositing the amounts in the respective bank accounts of the customers the appellant misappropriated them and even fabricated false documents by posting false entries. The bank therefore dismissed him from service after holding an enquiry.

2. Before the Labour Court the enquiry was not challenged but only the quantum of punishment was challenged. The Labour Court was influenced by the fact that the amount misappropriated is that of the customers and not of the bank and further the workman had repaid the amounts due to the customers and therefore there was repentance on the part of the appellant. The Labour Court was also influenced by the fact that the appellant deserved to be given a chance to reform himself. It, therefore, interfered with the order passed by the management and directed the management to take him back in service and further held that the proper punishment would be to withhold two future increments with cumulative effect.

3. The Bank challenged the said award and the learned single Judge who heard the writ petition allowed it as the Learned Single Judge was of the view that the Labour Court had not exercised power u/s 11-A of the Industrial Disputes Act in

a just and reasonable manner. It clearly appears that the Labour Court misdirected itself in taking a lenient view as can be seen from the observation that the amount misappropriated did not belong to the Bank but it belonged to the customers. Such a view cannot be said to be a reasonable view at all. The Labour Court was also wrong in assuming that the appellant had repented for his act. The amount was repaid by the appellant only after he was caught and not before. As the Labour Court had thus misdirected itself while considering the quantum of punishment to be imposed the learned single Judge was justified in interfering with the said award.

4. Moreover, it is now well settled that once an enquiry is properly held and the management has thought it fit to pass an order of dismissal considering the nature and gravity of the act committed by the employee, it is not for the Court including the Labour Court to interfere with such orders of the management. This being a case of misappropriation by a person who was holding the position of Accounts Clerk in a Bank it cannot be said that the Bank had taken a wrong view of the matter and the punishment was unduly harsh.

5. This appeal is therefore dismissed.