

(2009) 11 BOM CK 0027
In the Bombay High Court
Case No : Writ Petition No. 309 of 2004

Shri Shriram Vishwanath

APPELLANT

Vs

The Presiding Officer, Central Government Industrial Tribunal
Cum Labour Court and The Canara Bank, Government of
India

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 11A

Citation : (2010) 1 ALLMR 65 : (2010) 124 FLR 911 : (2010) 1 MhLj 587

Hon'ble Judges : A.B. Chaudhari, J

Bench : Single Bench

Advocate : Rohit Deo, for the Appellant; S.N. Kumar, for R-2, for the Respondent

Final Decision : Allowed

Judgement

A.B. Chaudhari, J.—Being aggrieved by the judgment and award dated 7.8.2000 passed by the C.G.I.T-Cum-Labour Court, Jabalpur, in I.D.A Reference No. R/78/96, answering the reference in the negative, the present writ petition was filed in this Court by the petitioner- workman.

2. In support of the writ petition, Mr. Rohit Deo, learned Counsel for the petitioner, made the following submissions.

(i) The impugned judgment and award made by the tribunal is cursory and the tribunal which is the first court has not performed its duty to go through the documents as well as evidence produced by both the sides before it and to address itself thereon and particularly in the light of the amended provision of Section 11A of the Industrial Disputes Act and the scope thereof explained by the Hon"ble Supreme Court in paragraph 32 in the case of The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others, .

(ii) The matter could either be remitted to the Labour Court for fresh

consideration or decided by this Court on merits.

(iii) The charge that was framed against the petitioner was purported to be under Regulation 3(j) & (m) of Chapter IX of Canara Bank Service Code, namely that the petitioner had though received 130 packets of hundred rupees denomination, had handed over only 129 packets to the second key-holder Mr. Ninawe and thus misappropriated amount of Rs. 10,000/-. There was no charge of negligence on the part of the petitioner. The Enquiry Officer committed an error while summarizing his findings in Enquiry Report by relying upon the preliminary investigation report and the statements recorded during the said preliminary investigation, which is not permissible when a regular domestic enquiry was held. The evidence of various witnesses which was recorded during the domestic enquiry clearly shows that the date of incident viz. 11.11.1992 was a day of heavy rush in the Branch and huge cash was received on that day in the bank. As a result, the Branch Manager, deputed additional staff for counting the cash and not only that, even the Branch Manager Mr. Ahuja had to enter the cash cabin to assist them to count the cash. Several persons, atleast 11 in number, had thus direct ingress & egress in the cash section when the cash was being counted. It was also an admitted position by the witnesses that while counting cash and taking entries thereof, mistakes had occurred and the concerned cashiers or the clerk or the officer had made corrections by changing the figures in order to correct the mistakes. The counsel then argued that attention of the said concerned witnesses was drawn to the corrections carried out by them in their respective documents, they candidly admitted the same. Looking to the fact that the huge cash was received on the said day of heavy rush in the Branch and so many persons were deployed to count the cash, there was nothing strange that the petitioner also having made mistake changed his entry from 130 to 129, as the concerned Officer also changed it from 48 to 49. There being no other extraordinary circumstances, the correction made by the petitioner from 130 to 129, which was obviously a mistake, could not be ignored particularly when the corresponding entry was also varied as aforesaid by the other officer. Admittedly, there was no direct evidence against the petitioner in respect of the charge levelled against him and the management simply relied on the circumstantial evidence either in the documentary form or from the oral evidence of the staff of the Bank. Thus, the case being solely depending upon circumstantial evidence, the Enquiry Officer as well as Tribunal did not take care in weighing the same in accordance with law to find out carefully whether the petitioner was entitled to benefit of doubt in respect of the charge levelled against him. There is whatsoever no attempt by any of them to that effect and therefore, this Court should find out the truth.

(iv) The letter that was tendered by the petitioner after failed search for one bundle of Rs. 100/denomination when he was called in the Bank at 8 p.m. has been dubbed by the Enquiry Officer as well as Tribunal as an admission without evening bothering to look into the relevant and connected evidence and circumstances and the cross examination of the witnesses pointing out towards

the fact that the letter was issued in order to take the moral responsibility of making good the loss of Rs. 10,000/-. The conduct of the petitioner in doing so has been wrongly viewed as an admission of guilt which has caused miscarriage of justice to the petitioner. It was the duty of the tribunal to ponder over the evidence recorded during the domestic enquiry and discuss the same and then come to a proper conclusion. But the impugned judgment and award shows a mechanical approach having been adopted by the tribunal.

(v) The petitioner employee has already attained the age of superannuation and therefore, there is no question of grant of reinstatement and thus, the petitioner would be entitled to relief of award of full back-wages etc. The award of full back-wages will have to be made in the instant case since the charges levelled against the petitioner have not been proved at all and there is no evidence to hold the petitioner guilty of the charge; this being a case of no evidence, and consequently the petitioner-employee will be entitled to full back-wages.

3. Per contra, Mr. Kumar, learned Counsel for the respondent vehemently opposed the writ petition. In fact, both the counsel took me through the entire evidence that was recorded by the Enquiry Officer, so also findings of the Enquiry Officer. Mr. Kumar argued that the petitioner was assigned the job of Cash Supervisor and was a responsible job for handling huge cash in the Bank. The respondent Industry being a banking company and the petitioner being a cash supervisor, this Court must look to the nature of job; the discipline required and the trust reposed in a banker. The petitioner did not adhere to required norms and therefore, the usual argument to canvass the point about disproportionate punishment would have no application. He then argued that in the past also there was negligence on the part of the petitioner and therefore, he was punished by stopping the special allowance for the post of Cash Supervisor for a period of six months. It is with this point of view, this Court should proceed to appreciate the oral as well as documentary evidence in the present matter. The learned Counsel for the respondent Bank then argued that on the date of incident, the petitioner had left the premises of the bank after 5.30 p.m. without obtaining any permission from his Officer to leave the bank. This was all the more important because he had not handed over the entire cash to Mr. Ninawe before leaving the bank. This itself shows the suspicious conduct of the petitioner. That apart, petitioner had received 49 bundles from Shri Amle, 80 bundles from Shri Nikhade and 1 bundle from Shri Kolhatkar i.e. total 130 bundles. When he was confronted after his re-appearance in the bank at 8 p.m., he agreed that he had received 130 bundles and there was no explanation as to how he changed the entry of 130 bundles to 129 bundles in his record. Mr. Kolhatkar has deposed that he had given 1 bundle and the petitioner had scored off the said entry of receipt of one bundle from Shri Kolhatkar. The respondent bank then clearly proved that petitioner had intentionally and dishonestly corrected the record by showing one bundle less and thus he misappropriated the amount of Rs. 10,000/-. According to Mr. Kumar, the letter issued by the petitioner to the effect that he was ready to deposit the amount of Rs. 10,000/-

by accepting the responsibility is nothing but an admission on his part of having clandestinely taken away the said amount. The Enquiry Officer as well as the Tribunal have rightly found the said letter as an admission on the part of the petitioner and since admission is the best piece of evidence, there was no need for having other evidence, though the respondent Bank had adduced the evidence of several witnesses. The learned Counsel then took me through the evidence of almost all the witnesses examined by the Bank and it is not necessary to quote everything here. The standard of proof in the domestic enquiry and the evidence required is not like the one in regular court trials and therefore, this Court should not substitute its view over the one taken by the Enquiry Officer as well as the Tribunal. Citing decision in the case of Employers Management West Bokaro Colliery of TISCO Ltd. Vs. Concerned Workman, Ram Pravesh Singh, , he argued that when two views are possible, there is no need to interfere . He thus prayed for dismissal of the writ petition. He then alternatively argued that there was admittedly no pleading and evidence tendered by the respondent in order to claim back-wages and therefore, in the light of the judgment of the Supreme Court in the case of J.K. Synthetics, this Court should refuse to award of back-wages. Finally he prayed for dismissing the petition in entirety.

4. CONSIDERATION

I have gone through the impugned judgment and award. With the assistance of the learned Counsel for the parties, I have gone through the entire record and the evidence that was tendered during the course of enquiry conducted by the Enquiry Officer. It is seen from the record that a detailed note of written argument was filed by both the parties before the Central Government Industrial Tribunal cum Labour Court, Jabalpur (for short Labour Court). Perusal of the impugned judgment and award made by the Labour Court, however, does not show any application of mind to the detailed point wise argument advanced by both sides before it, which in my opinion is unfortunate since labour Court is the First Court and it is the duty of the Labour Court to advert to all the points raised before it, at least on facts and evidence. Perusal of the impugned judgment shows that the same has been recorded in a cryptic manner and in normal course this Court would have remanded the matter to the Labour Court for writing fresh judgment. But since termination from service is of the date 22.1.1994 and the petitioner has already attained the age of superannuation, it would be most inappropriate at such a late stage to remit the matter to the Labour Court particularly because the entire record and proceedings are now before me. Hence, I have decided not to remand the matter to the Labour Court, but proceed to decide the same on merits.

5. The following proposition of law laid down in the case of The Workmen of Firestone Tyre & Rubber Co. of India P. Ltd. v. The Management and Ors. Has recorded in para 32 thereof still holds good. It reads thus;

32. ...This position in our view, has now been changed by Section 11A. The

words in the course of the adjudication proceeding, the Tribunal is satisfied that the order of discharge or dismissal was not justified: clearly indicate that the Tribunal is now clothed with the power of reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the Tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in Indian Iron and Steel Co., Ltd. and Another Vs. Their Workmen, . case can no longer be invoked by an employer. The tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct; but also to differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of the employer, has ceased to be so; and now it is the satisfaction of the Tribunal that finally decides the matter.

6. It is not in dispute that the petitioner was charged under Regulation 3(j) & (m) of Chapter IX of Canara Bank Service Code on the allegations that on the date of incident viz. 11.11.1992, the petitioner had received 130 packets of Rs. 100/- denomination; 49 from Shri Awale, 80 from Shri Nikhade and one from Shri Kolhatkar, but the petitioner handed over only 129 packets to second key holder Mr. M.R. Ninawe, who found shortage of Rs. 10,000/- i.e. one packet. That, Mr. Ninawe had not taken the physical possession of the cash from the petitioner but still the petitioner had left the bank without taking permission. It came to his knowledge at about 8 p.m. on the same day when he was called back from his house to the Branch. The petitioner agreed for having not handed over the entire cash to Mr. Ninawe and also gave a letter stating that the petitioner incurred a cash shortage of Rs. 10,000/- and would repay accordingly. The charge levelled against him then was that he clandestinely took the amount of Rs. 10,000/- and misappropriated the same. It appears that preliminary investigation was conducted by one Mr. Shenoy before the departmental enquiry was conducted and Mr. Shenoy found lapses in the very process of handling the cash. They are reproduced below.

Lapses in handling cash.

1. There is no system of acknowledging the cash received from cashiers for stitching.
2. There is no system of noting cash packets while giving for counting and verifying the same after receiving back from the counted persons.
3. It is said counted cash and cash to be counted/stitched are kept /arranged on the table, instead counted cash can be kept separately when counted in a trunk/cup-board etc.
4. Too many people going inside the cabin (on this particular day eleven people were inside the cash cabin), may be avoided.

Having gone through the entire evidence that was tendered during the course of Departmental Enquiry by both sides, with the assistance of the learned Counsel for the parties before me, I find that the following facts are not disputed, which is evident from the evidence of the witnesses.

(i) The day viz. 11.11.1992 was a day of unusual rush in the bank and on that day huge cash was being received right from the morning in the bank.

(ii) Though initially only three persons including the petitioner were working, handling the cash, on their request, additional staff of about 2 or 3 was deputed to count the cash and slowly & slowly this number of staff which entered the cash cabin for counting with permission of the manager swelled upto 12. In other words, in all 12 persons had access to the cash who were busy in counting the same. Not only that, even the Manager Mr. Ahuja was required to participate in counting the cash.

(iii) While counting the cash, almost every cashier so also the petitioner in their respective books varied the entries by correcting the same, which, according to them, were made because of mistake or confusion. Shri Awale in answer to Question No. 8 stated that he had made three corrections in hundred rupees denomination column on that single day. In answer to Question No. 10, he admitted that he altered the figure of 8 to 9 at sr. No. 2; figure of 5 to 6 at sr. No. 6 and figure of 48 to 49 in the same column. Similar is the admission of almost all the witnesses examined in the enquiry.

(iv) MW 5 Mr. Ahuja in answer to question No. 7 stated thus;

On 11.11.92 after business hours by Mr. S.V. Deshpande and Mr. Ghahtol who were also working in Cash Dept told me that today there is heavy receipts so you please deputy some body to help in cash counting. Therefore, I told Mr. Ninawe, IInd key holder and Mr. P.S. Rammurthy, Manager to go to Cash Cabin for counting of cash. When the cash counting was not over at about 5.15 p.m., I enquired from Mr. S.V. Deshpande about cash counting. He informed me still some packets are there to be counted and my help was also necessary. Hence, I went to cash cabin at about 5.15 for counting cash. I was in the cash cabin till Mr. Ninawe took charge of entire cash from Mr. S.V. Deshpande. When Mr. Ninawe, II nd key holder took complete charge of cash from Mr. Deshpande, he informed me that there is shortage of Rs. 10,000/- in cash. I also verified the same and enquired with Mr. N.R. Niawe about Mr. S.V. Deshpande. Mr. N.R. Ninawe informed me that since Mr. Deshpande had some personal work, he has already left the office. This incident was informed to Mr. Armugam, Sr. Manager. Our Sr. Manager sent one clerk Shri S.V. Srirangwar to go to Mr. Deshpandes house and call him to the branch. When Sri S.V. Srirangwar reached Mr. Deshpandes house at 7 Oclock, he was informed that Mr. Deshpande has not reached at his residence. Mr. Deshpande reached his house at 7.15 and then accompanied with Srirangwar came to the branch. I told full incident to Mr. Deshpande and asked him how it has happened and why he left the office

without handing over entire cash. Mr. S.V. Deshpande informed me as he had some personal work, he left the office. Mr. S.V. Deshpande verified his book where he is writing the bundles received from all the three cashiers and informed me that he had received 130 packets of Rs. hundred denomination, but as the actual cash came to 129 packet, without verifying the fact, he changed in his book to 129. On my enquiring why he changed 130 packets to 129 packets, he informed me that he is unable to give reply as to how it has been done by him. He agreed his mistake and told me that at present I cannot pay Rs. 10,000/- immediately. Please debit Sundry Assets in Banks book for tallying the cash. He agreed his mistake in writing by giving a letter. Hence amount of Rs. 10,000/- was debited to Sundry Assets Cash Shortage A/c S.V. Deshpande and payment was shown as late payment on that day.

(v) The above evidence of Mr. Ahuja to my mind shows that Mr. Ninawe had nothing to say against the petitioner that he had not received the entire cash from Shri S.V. Deshpande and on the contrary, Shri Ahuja has stated that Shri Ninawe has taken the entire charge from Shri S.V. Deshpande -the petitioner. In other words, Shri Ninawe must have taken all 129 or 130, as the case may be, bundles from the petitioner and it would require hardly 10-15 minutes to count these bundles. Thus, before petitioner left the Bank, Mr. Ninawe had no grievance that the total number of bundles were 129 and not 130. The statement made by Shri Ninawe in his evidence that he did not take complete charge appears to be after thought. His answer to question No. 7 clearly shows so. I quote his answer.

A.7 -Actually the cash was not handed over to me by the concerned Supervisor. It was kept ready to hand over.

(vi) If the cash was kept ready for handing over, one fails to understand as to how Mr. Ninawe allowed Mr. Deshpande to go out of the bank without counting only bundles. Mr. Ninawe would have immediately made a complaint that petitioner was leaving the Branch without Mr. Ninawes having taken charge of all bundles or the entire cash from him. Similar is the position in relation to the alleged admission letter given by the petitioner, which has been heavily relied upon by the Enquiry Officer as well as the Labour Court. The above evidence of Mr. Ahuja clearly shows that the admission was not regarding taking away Rs. 10,000/- or misappropriating the same, but the admission was regarding mistake committed by the petitioner like others and his readiness to make the loss good instead of raising any controversy. In the light of the above evidence of Mr. Ahuja, who did not find any dishonesty on the part of the petitioner on the spot, but agreed that it was his mistake and that is why was pleased to allow him to make good the loss of Rs. 10,000/- to the bank. Had Mr. Ahuja sensed dishonesty, he would not allowed him to do so. Viewing the evidence of Mr. Ahuja in the light of the fact that all other cashiers had also made corrections in their respective books, as Mr. Awale changed the entry from 48 to 49, the so called admission under letter dated 11.11.92 (M Ex.-2) considered by the Enquiry Officer as well as Labour Court is nothing but a perverse approach on the part of

the Enquiry Officer as well as the Labour Court. The petitioner explained in his evidence that he had taken moral responsibility and on the contrary, the letter was treated as admission.

(vii) Since the petitioner had admittedly left the bank at 5.30 p.m. after official bank hours without any protest or obstruction by Mr. Ninawe or the manager or by anybody, particularly relating to shortage of one bundle, there is nothing on the record to show that any permission was required to be obtained by the cashier before leaving the branch. It is true that a cashier cannot take a plea that he can leave the bank exactly at 5.30 p.m. whether the work of counting the cash is completed or not. But then in the instant case it is nobodys complaint that he was asked to stop for a while and not to leave the branch at 5.30 p.m. for any reason whatsoever by either Shri Ninawe or by anybody. There is, therefore, no reason to look with suspicioun at the conduct of the petitioner in leaving the bank after its working hours.

(viii) The fact that 12 persons as against three were working in the cash cabin on that unusual day of heavy rush and the fact that all other 11 persons were not confronted with the issue regarding loss of one bundle, but only petitioner was picked up merely because he had left the bank at 5.30 p.m. i.e. after the banking hours, appears to have been made with a view to make him scape goat.

(ix) Shri Kolhatkar in his answer to Question No. 10 stated that, corrections or over writing can be made by cashier in the process of working and for bonafide reasons also the same can be corrected. He also admitted to have made over writing himself on M Exh. 12E and 12F which were of the same date i.e. 11.11.1992; in answer to Question No. 8. The submission made by Mr. Kumar, learned Counsel for respondent No. 2 Bank,, that, therefore, evidence of Shri Kolhatkar about handing over of one bundle to the petitioner has been clearly proved, does not appear to be correct in view of the over writing made by Shri Kolhatkar also. At any rate, nothing was brought on record that the missing bundle was the same that was given by Shri Kolhatkar.

6. Taking over all view of the matter, I find that there is a total perversity on the part of the Enquiry Officer as well as Labour Court in dealing with the oral as well as documentary evidence placed before them. The decision cited by Mr. Kumar reported in Employers Management West Bokaro Colliery of TISCO Ltd. Vs. Concerned Workman, Ram Pravesh Singh, is of no assistance to him, as in the facts of that case there was a direct evidence of the witnesses about indecent, riotous and disorderly behaviour of the delinquent towards his superiors, who was examined but the tribunal still wanted to have independent witness. Admittedly, in the instant case, there is no direct evidence and I have found perversity in the approach of the Enquiry Officer as well as the Labour Court in dealing with the matter. All other decisions cited by him are distinguishable on facts.

7. The up-shot of the above discussion is that on evidence none of the charges

were proved against the petitioner even by circumstantial or any other evidence. The Enquiry Officer as well as Labour Court went merely by suspicion against the petitioner only because he had left the Bank at 5.30 p.m., but then he had left the bank after the banking hours and none protested about it. The fact that he left the bank at 5.30 p.m. after banking hours cannot raise a shred of suspicion towards him so much so that it can be inferred that he misappropriated the amount of Rs. 10,000/-. Admittedly, there was no system existing in the bank to physically check the person or employee or cashier before he enters the bank and leaves the cash-cabin or the bank and particularly when there was unusually heavy rush. In place of three regular cashiers, 12 persons had entry into the cash-cabin. At any rate, even in domestic enquiries, it is a settled legal position that suspicion however strong, even if proved, cannot take the place of proof. Merely because Petitioner left the bank at 5.30 p.m., there is no reason to raise a suspicion in the light of conduct of Mr. Ninawe and other at the point of time which I have already discussed above. Resultantly, I find that the termination of the petitioner is illegal and the same must be quashed.

Since the petitioner has already attained the age of superannuation, the question of ordering his reinstatement does not arise. Learned Counsel for the parties were, therefore, asked to make submissions on the question of back-wages.

8. Mr. Deo, learned Counsel for the petitioner vehemently argued that in the event the termination is found to be illegal, the normal rule of grant of continuity of service with monetary benefits and backwages must follow. Per contra, according to Mr. Kumar, referring to the decision in the case of J.K. Synthetics Ltd. v. K.P. Agrawal and Anr. reported in 2007 I CLR 670, argued that admittedly there was no pleading and evidence tendered by the petitioner that he was not gainfully employed. In the absence of such pleadings and evidence, the petitioner will not be entitled to any amount of back-wages and therefore, this Court should reject the prayer for grant of any back- wages.

9. I have carefully considered the submissions made by the learned Counsel on the question of grant of back-wages and I find that award of back-wages will have to be made in view of the fact that a finding has been recorded by me above that the charges levelled against the petitioner were not proved and the evidence was not sufficient to hold him guilty of the said charges. In the light of the decision of the Supreme Court in the case of J.K. Synthetic (supra) and particularly in the light of the observations 19 & 20 thereof, I find that the back-wages will have to be granted to the petitioner. I quote paragraph 19 & 20, which reads thus

19. But the cases referred to above, where back wages were awarded, related to termination/retrenchment which were held to be illegal and invalid for noncompliance with statutory requirements or related to cases where the Court found that the termination was motivated or amounted to victimisation. The decisions relating to back wages payable on illegal retrenchment or termination may have no application to the case like the present one, where the termination

(dismissal or removal or compulsory retirement) is by way of punishment for misconduct in a departmental inquiry, and the court confirms the finding regarding misconduct, but only interferes with the punishment being of the view that it is excessive, and awards a lesser punishment, resulting in the reinstatement of employee. Where the power under Article 226 or Section 11-A of the Industrial Disputes Act (or any other similar provision) is exercised by any court to interfere with the punishment on the ground that it is excessive and the employee deserves a lesser punishment, and a consequential direction is issued for reinstatement, the court is not holding that the employer was in a wrong or that the dismissal was illegal and invalid. The court is merely exercising its discretion to award a lesser punishment. Till such power is exercised, the dismissal is valid and in force. When the punishment is reduced by a court as being excessive, there can be either a direction for reinstatement or a direction for a nominal lump sum compensation. And if reinstatement is directed, it can be effective either prospectively from the date of such substitution of punishment (in which event, there is no continuity of service) or retrospectively, from the date on which the penalty of termination was imposed (in which event, there can be a consequential direction relating to continuity of service). What requires to be noted in cases where finding of misconduct is affirmed and only the punishment is interfered with (as contrasted from cases where termination is held to be illegal or void) is that there is no automatic reinstatement; and if reinstatement is directed, it is not automatically with retrospective effect from the date of termination. Therefore, where reinstatement is a consequence of imposition of a lesser punishment, neither back wages nor continuity of service nor consequential benefits, follow as a natural or necessary consequence of such reinstatement. In cases where the misconduct is held to be proved, and reinstatement is itself a consequential benefit arising from imposition of a lesser punishment, award of back wages for the period when the employee has not worked, may amount to rewarding the delinquent employee and punishing the employer for taking action for the misconduct committed by the employee. That should be avoided. Similarly, in such cases, even where continuity of service is directed, it should only be for purposes of pensionary/retirement benefits, and not for other benefits like increments, promotions, etc.

20. But there are two exceptions. The first is where the court sets aside the termination as a consequence of employee being exonerated or being found not guilty of the misconduct. Second is where the court reaches a conclusion that the inquiry was held in respect of a frivolous issue or petty misconduct, as a camouflage to get rid of the employee or victimise him, and the disproportionately excessive punishment is a result of such scheme or intention. In such cases, the principles relating to back wages etc., will be the same as those applied in the cases of an illegal termination.

Thus, the petitioner will be clearly entitled to back- wages in view of the above statement of law in paragraph 20.

10. The question is, what should be the quantum of back-wages. I find that the petitioner has been out of employment since the year 1994 and he also did not receive any retiral benefits. Considering the amount of back-wages, it would be payable in lump-sum and the accrual of benefits because of the lump-sum payment and the fact that he had a few years to retire from service, if kept in mind, in my opinion, it would be appropriate to award only 70% of the back-wages to the petitioner from the date of termination till the date of his superannuation. Needless to say that the petitioner shall also be entitled to continuity of service with all monetary benefits thereon. The petitioner shall, in addition, be entitled to the cost of this petition which shall be quantified at Rs. 10,000/-. In the result, I make the following order.

11. Writ petition is allowed. The impugned judgment and order of the Labour Court as well as impugned order of dismissal dated 22nd January, 1994 (Annexure P-13) are quashed and set aside. It is declared that the dismissal of the petitioner from service is illegal. The petitioner shall be entitled to grant of 70% back-wages from the date of his termination till the date of his superannuation and the respondent bank shall pay the same to him along with monetary benefits of continuity of service, so also all the terminal benefits within a period of two months from today. In addition, the respondent bank shall pay cost of Rs. 10,000/- of this petition to the petitioner within a period of two months from today.