

**SUPREME COURT OF INDIA**

State Bank of Patiala

Vs.

General Secretary, Staff Union & Ors.

C.A.No.9881 of 2016

(Anil R.Dave,J., Adarsh Kumar Goel and L.Nageswara Rao,JJ.,)

30.09.2016

**JUDGMENT**

**Anil R.Dave,J.,**

SLP(C)No.8181 of 2013

1. Heard the learned counsel.
2. Leave granted.
3. Being aggrieved by the judgment dated 11th October, 2012, delivered in LPA No.448/2010 (O&M) by the High Court of Punjab & Haryana at Chandigarh, this appeal has been filed by the employer-Bank.
4. The facts giving rise to the litigation, in a nutshell, are as under :

“The appellant had appointed Shri Bhagwant Singh, respondent no.3, as a peon in 1973 and he was promoted to the post of record-keeper/godown-keeper in 1984. In the course of performance of his duties, he was asked to look after a godown maintained by the appellant-Bank, wherein stock of the borrowers had been stored. The said stock had been pledged to the appellant-Bank as a security and there was a specific instruction to respondent no.3 that he should not permit anyone to remove the stock without express permission of the Branch Manager concerned.”

5. It is an admitted fact that without getting any instruction from the Branch Manager or any higher authority, the respondent godown-keeper permitted one of the borrowers, whose goods had been pledged and kept in the godown, to take away the goods with an understanding that the said borrower would replace the said goods after some time. After the borrower removed the goods, the borrower had replaced the goods with goods of an inferior quality.

6. One need not stress importance of removal of such goods, as removal of the goods without any authority from the Bank authorities would adversely affect security of the Bank because the security which was given to the Bank would be reduced by virtue of removal of the goods or by replacement thereof with goods of an inferior quality. In the instant case, it is also an admitted fact that the goods were replaced by the borrower by other goods which were of inferior quality and therefore, value of the security, which was given by the borrower to the appellant Bank, had been adversely affected.

7. In the aforesaid circumstances, an inquiry had been initiated against the respondent godown-keeper and after considering the relevant facts and examining the witnesses concerned, the inquiry officer came to the conclusion that the respondent-workman was guilty of gross misconduct. Ultimately, for the aforesaid misconduct, which had been proved in the inquiry, the respondent-workman was dismissed from service.

8. Being aggrieved by the order of dismissal, through the respondent-Union, the respondent godown-keeper approached the Labour Court.

9. After examining the facts of the case and considering the evidence, the Labour Court exercised its powers under Section 11A of the Industrial Disputes Act, 1947, and found the punishment imposed upon the respondent-workman to be harsh and therefore, the punishment of dismissal was substituted by a punishment of stoppage of 5 increments with cumulative effect. It was further directed to reinstate the respondent godown-keeper with back wages.

10. The aforesaid Award made on 14th August, 2008 was challenged by the appellant before the High Court. The learned Single Judge upheld the Award and even the Division Bench in LPA No.448/2010 (O&M) filed by the appellant, confirmed the Award as well as the order passed by the learned Single Judge by virtue of the impugned judgment dated 11th October, 2012.

11. Being aggrieved by the aforesaid judgment, this appeal has been filed.

12. Upon perusal of the impugned judgment as well as the report of the inquiry officer, the Award made by the Labour Court and the order passed by the learned Single Judge, we are of the opinion that the view taken by the Labour Court is not proper.

13. Upon perusal of the report of the inquiry officer, it is very clear that the respondent, godown-keeper, had permitted the borrower to take away his goods, which had been pledged to the bank, against the specific instructions of the bank officials and the borrower had replaced the goods with goods of inferior quality and thereby substantial loss was caused to the appellant bank. It is also pertinent to record that the above fact was admitted by the respondent godown-keeper. In spite of the above fact, which had been established in the inquiry proceedings, for the reasons best known to it, the Labour Court came to the conclusion that the respondent godown-keeper was not benefitted by his misconduct and as

there was no embezzlement by the workman, the punishment imposed was harsh and therefore, it reduced the punishment from dismissal from service to stoppage of 5 increments with cumulative effect.

14. Unfortunately, the learned Single Judge as well as the Division Bench confirmed the said Award.

15. What is important in the instant case is that the respondent-workman was appointed as a godown-keeper and his duty was to protect the security given to the appellant-Bank. It is an undisputed fact that without getting any instruction or permission from the higher authorities, namely, the Branch Manager of the Branch concerned or any other higher authority, the respondent godown-keeper permitted the borrower to remove the goods and also permitted him to replace the goods with goods of inferior quality.

16 . First of all, it was not open to the respondent godown-keeper to permit the borrower to remove the goods because that would adversely affect the interest of the appellant-Bank. By removal of the goods, to the extent of value of the goods removed, security of the Bank had been diminished. That was against the interest of the employer of the respondent godown-keeper. This is nothing but gross negligence. A godown-keeper, who doesn't protect the goods kept in the godown, can be said to have acted carelessly and negligently. What he did was absolutely against the interest of his employer which can never be tolerated.

17. It is unfortunate that the Labour Court did not take the said fact seriously. The watchman who does not guard or the godown-keeper who does not keep check on the goods kept in the godown, is of no use and is a liability to the employer. Such a person cannot be continued in service and, in our opinion, the order of dismissal was just and proper. The Labour Court ought not to have interfered with such a just order by reducing the punishment in pursuance of its powers under Section 11A of the Industrial Disputes Act, 1947.

18. We are not referring the judgments which have been cited by the learned counsel, as, in our opinion, it is not necessary to go into the aspect with regard to reduction of punishment. In our opinion, the Labour Court had erred by reducing the punishment. Such a lenient view cannot be taken as it would set a bad precedent among other workmen of the appellant-Bank.

19. For the aforesaid reasons, we set aside the judgments confirming the Award as well as the Award and we uphold the order of dismissal passed by the appellant-Bank.

20. The appeal stands disposed of as allowed with no order as to costs. Pending application, if any, stands disposed of.