

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C.) No. 11988/2009**

% **Date of Decision: 08th October, 2009**

ALL INDIA PUNJAB NATIONAL BANK WORKERS FEDERATION

..... PETITIONER

! Through: Mr. Piyush Sharma and Mr. K.G. Mishra,
Advocates.

VERSUS

\$ PUNJAB NATIONAL BANK

.....RESPONDENT

^ Through: Mr. Jagat Arora, Advocate.

CORAM:

Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **YES**
2. To be referred to the reporter or not? **YES**
3. Whether the judgment should be reported in the Digest? **YES**

S.N.AGGARWAL, J (ORAL)

The petitioner is a minority union and represent 3.26% workers in the clerical cadre of Punjab National Bank. The majority union is PNB Employees' Federation (AIPNBEF) and this majority union represent the majority of workers employed in Punjab National Bank. The management of Punjab National Bank entered into a memorandum of settlement dated 13.10.2008 with the majority union i.e. AIPNBEF under Section 12(3) of the Industrial Disputes Act, 1947 regarding procedures and policies concerning posting of Clerks as special Assistants and related matters. The said memorandum of settlement is at pages 21-31 of the paper book.

2 The petitioner being the minority union of the workers of Punjab National Bank has filed this writ petition and has prayed for the following reliefs:-

(a) *Issue writ of mandamus or an appropriate writ or*

direction to the respondent to promote such clerical staff of the Bank to Special Assistant who are eligible for promotion as per agreement dated 01.11.1988.

(b) Issue writ of mandamus or an appropriate writ or direction to the respondent to promote such clerical staff of the Bank to Special Assistant who are eligible for promotion as per agreement dated 01.11.1988; as the agreement dated 13.10.2008 is in contravention of requirement under Section 18(3) of the Industrial Disputes Act, 1947 and not binding upon the members of the petitioner's union employees.

(c) Quash the settlement dated 13.10.2008 entered into between the Management of Punjab National Bank and All India Punjab National Bank Employees Federation.

3 Mr. Piyush Sharma learned counsel appearing on behalf of the petitioner (minority union) has contended that the impugned settlement dated 13.10.2008 is not binding on the petitioner in view of provisions contained in Sections 18(1) & 18(3) of the Industrial Disputes Act, 1947. Sections 18(1) & 18 (3) of the Industrial Disputes Act, 1947 are relevant and are extracted below:-

“18. Persons on whom settlements and awards are binding.-(1) *A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.*

*(2)******

(3) A settlement arrived at in the course of conciliation proceedings under this Act 5[or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or 6*[an award 7*[of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on--*

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [arbitrator,] [Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part”.

4 Section 18 extracted above deals with the persons on whom settlements and awards are binding. In terms of Section 18(1) any settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceedings is binding on the parties to the agreement. Section 18(3) applies to settlement between the employer and the workman arrived at between them during pendency of the conciliation proceedings or proceedings pending before the Arbitrator or Labour Court or Tribunal or National Tribunal. The settlement that has been challenged by the petitioner in this petition was not arrived at when proceedings were pending either before any of these authorities. The petitioner before filing of the present writ petition had already started conciliation proceedings under the Industrial Disputes Act, 1947 before the Conciliation Officer which have resulted into failure. The failure report was submitted by the Conciliation Officer to the appropriate Government for its consideration. I am of the view that once the petitioner had started proceedings under the Industrial Disputes Act then it is not open for him to challenge the impugned settlement in writ proceedings. Even otherwise the petitioner being the minority union has no locus standi to challenge the impugned settlement arrived at between the management of Punjab National Bank and the majority union. The Hon'ble Supreme Court has held in the case of **Chairman SBI & Another Vs. All Orissa State Bank Officers Association & others reported in JT 2002 (4) SC 537** that right to

participate in discussions/negotiations regarding general issues affecting all employees and settlement, if any, arrived at as a result of such discussions/ negotiations which is binding on all employees is available only to a majority union. In view of this judgment of the Supreme Court, I have no hesitation in holding that the petitioner being the minority union representing only 3.26% workers of clerical cadre has no locus standi to challenge the settlement dated 13.10.2008 arrived at between the employer and the majority union of workers.

5 In view of the foregoing, I do not find any merit in this writ petition which fails and is hereby dismissed in limine.

OCTOBER 08, 2009
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S.N.AGGARWAL, J