

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7111 of 2001.

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Allahabad Bank

.... Petitioner/s

Versus

1. Union of India.
2. The Presiding Officer, Central Industrial Tribunal, Patna.
3. The General Secretary, Allahabad Bank Karmchari Sangh.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AJAY KUMAR SINHA, Adv.

For the Respondent/s : Mr. S.N.Pathak, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-03-2015

Heard counsel for the petitioner and the respondents.

In this case, petitioner is challenging the order dated 21st March 2001 passed by the Industrial Tribunal, Patna in Reference Case No. 3© of 2000 whereby and whereunder the Tribunal has upheld the transfer of Rajesh Kumar Sinha from Patna University Branch to Phulwarisharif Branch but refused to interfere with the order of transfer of Sri J.D. Khan, General Secretary from Patna Main Branch to Pataliputra Colony at a distance of 5 Kms. Sri Surendra Prasad, Assistant General Secretary from Patna Main Branch to Shekhpura Branch at a distance of merely 5 Kms. and B.K. Pal transferred from Patna University Branch to Patna Main Branch as four persons were transferred within 5 Kms.

The Allahabad Bank has two Unions, namely, Allahabad Bank Karmchari Sangh and Bihar State Allahabad Bank Employees Union.

The Allahabad Bank Karmchari Sangh is a minority union whereas the Bihar State Allahabad Bank Employees' Union is majority union. The Bank has entered into a Bipartite settlement with majority union, in pursuance thereof the Bank issued a circular vide Circular no. 2117 dated 3rd May

1990.

It appears from the record that the Bank was of view that the aforesaid persons are members of the minority union, were not entitled to protection, either under the settlement or of circular and as such benefit of rotational transfer was not available to them. All the five persons were transferred, as aforesaid, which led to industrial dispute. The Government of India referred the case before the Industrial Tribunal, Patna with the following term:

“Whether the action of the Management of Allahabad Bank amounts to discrimination in effecting rotational transfer of clerical staff i.e. Sri B.K.Pal, Sh. J.D.Khanna, Sh. Surendra Pd. And Sri Rajesh Kumar Sinha and also not allowing exemption to the office bearers of Allahabad Bank Karmchari Sangh and violation of guidelines while transferring Shri Rajesh Kumar Sinha beyond Municipal limit . If so, what relief the said workman/union are entitled to ?”

The parties filed their respective written statement and rejoinders. The workman has taken a plea that though they belong to minority union still they are covered under the provisions of settlement resultant to the Circular and they have been made victim of trade union activity. The workman took the plea, before passing the order of transfer, the Bank was required to give benefit of option for transfer. It has further been said that the office bearers of the majority union, those who have given option, were only transferred. It has further been submitted that the action of the Bank is completely dehors to the Circular and requires interference by this Court.

The Bank has taken a plea that the provisions of settlement does not apply to the members of Minority Union as settlement has been reached with the Majority Union, the Bank can extend this benefit to the members of majority

Union so much so all persons have been transferred within the town of Patna and Phulwarisharif, though does not fall within the Patna Municipal Corporation but the area is attached to Patna, for all purposes, it is part of Patna town itself.

The Tribunal has only interfered with the transfer of Rajesh Kumar Sinha as it was held his transfer was beyond Municipal Corporation violates the provisions of the settlement, including the circular.

The circular is not applicable to the members of minority Union, it only applies to only office e bearers of majority Union and the members of minority cannot take the benefit of that circular so much so Sri Rajesh Kumar Sinha, for all purposes was transferred in Patna. This Court while issuing notice stayed the award of the Tribunal, Rajesh Kumar Sinha must have completed his term of posting.

There is none to oppose the argument made by the counsel for the Bank.

However, looking to the nature of litigation, this Court does not find that the Bank has acted illegally in transferring Rajesh Kumar Sinha to Phulwarisharif. In such view of the matter the award dated 21st March 2001 passed in Reference Case No.3© is hereby quashed and this petition is allowed.

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(Shivaji Pandey, J)