

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2918 OF 2014

Indian Bank

.... Petitioner

Vs.

Shri. Sanjay G. Dhindle & Ors.

.... Respondents

Ms. Ambreen Saheed i/by MDP & Partners, Advocate for the
Petitioner.

Mr. N.M. Ganguli, Advocate for Respondent no.1.

Coram : Smt. R.P. SondurBaldota, J.

Date : 29th June, 2015.

P.C.

1 This petition is directed against the order dtd. 13th December, 2013 passed by the Central Government Industrial Tribunal, Mumbai allowing the Reference filed at the instance of the respondent challenging his termination from the service. The Tribunal has directed the petitioner to reinstate the respondent in service with 60% back-wages from 29th August, 2007 and continuity of service. The Tribunal has also directed the petitioner to absorb the respondent as it's permanent employee w.e.f. 21st January, 1995 and pay the difference in the pay and allowances till 28th August, 2007.

2 The petitioner is a bank. The respondent was appointed by the petitioner on 22nd January, 1993 to work in its stationery department at Vidyavihar branch. He worked there for six years and thereafter transferred to Prabhadevi branch, where he worked as Peon-cum-sub-staff. His daily working hours were 9.30 am. to 4.30 pm. and he was being paid wages against vouchers. He used to work from Monday to Saturday. His signatures were obtained on vouchers for three days in his own name as “Sanjay” and on remaining three days in name of “Santosh”. He worked more than 240 days in a calendar year without any break and received initially Rs.29/- per day, which was gradually increased to Rs.30/- per day and then Rs.40/- per day and lastly Rs.100/- per day. The vouchers being in the custody of the petitioner, xerox copies of the same were produced by the respondent at the time of evidence. He had called upon the petitioner to produce the originals, however, the petitioner did not produce them stating that the same were not available with it. The other grievance of the respondent was that the petitioner had regularised services of some of his colleagues, who had been doing the same work as the respondent. After working for 14½ years, when the respondent asked for permanency benefits, the concerned officer of the petitioner-bank orally asked him not to attend the work from 29th August, 2007.

3 The petitioner resisted the reference denying that the respondent had worked continuously for 240 days in any calendar year. It denied that he had worked for 14½ years continuously. It

relied upon circulars issued by the Government and Reserve Bank of India, imposing ban upon recruitment of any regular employee in a public sector undertaking.

4 The evidence led in the reference was of the respondent for himself and one K.V. Marali on behalf of the petitioner. The Tribunal after noting the evidence of the respondent and the admissions of material facts given by the witness of the petitioner held that the respondent had established his case of working for 240 days in calendar year for 14½ years. The admission recorded by the Tribunal was that the respondent was working in Vidyavihar branch since 22nd January, 1993. He worked there for six years. Thereafter he had worked Prabhadevi branch upto 28th February, 2006. The respondent used to arrange the stationery branch-wise to be given to various branches. One Pandurang Bhangare was the permanent sub-staff in stationery department, when the respondent was working there. The witness also admitted that only one person namely Pandurang Bhangare was a regular Peon working in the branch. The Tribunal then observed that in a Vidyavihar branch, only one person was not expected to arrange, maintain and supply stationery items to various branches and do the other work of Peon in the branch. This would indicate that the petitioner had availed the services of the respondent. It also noted the admission on the part of the witness of the petitioner that three other workmen doing the same work as the respondent had been made permanent after 10 years of service.

5 Contentions as regards ban by the Reserve Bank of India on the recruitment of any regular employee in the bank, as also the application of the decision of the Apex Court on granting permanency benefits to the temporary workmen engaged by not resorting to regular process of employment were advanced before the Tribunal. The decisions relied upon are:

1 Secretary, State of Karnataka and Ors. vs. Umadevi & others, reported in AIR 2006, Supreme Court, page 1806;

2 State of Himachal Pradesh and Anr. vs. Ravinder Singh, reported in 2009 L.A.B., I.C., page 866 and

3 Accounts Officer (A.& I.), APSRTC & Ors. Vs. K.V. Ramana & Ors., reported 2007 II CLR 81.

6 The Tribunal has correctly appreciated the decisions cited before it by holding that the respondent had worked for 14½ years continuously and for more than 240 days in each calender year and as such he was entitled for protection under Section 25-F of the Industrial Disputes Act and the termination of the respondent was clearly illegal and unjustified. As regards the circulars by the Government and Reserve Bank of India, the petitioner cannot be allowed to take shelter under the same. It is obvious that the petitioner was well aware of the circulars and the guidelines. It had appointed as well as continued the respondent over such a long period despite the knowledge. The

impugned award is a well reasoned order supported by the evidence on record and it does not require any interference at the hands of this court. The petition is dismissed.

(Smt. R.P. SondurBaldota, J.)