

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP No.9537 of 1992 (O&M)**

Date of Decision:18.11.2015

The Punjab State Cooperative Bank Ltd.

....Petitioner

Versus

Presiding Officer, Labour Court, Patiala and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present:Mr.Pardeep Bajwa, Advocate for the petitioner

Ms.Sukhmani Tiwana, Advocate for

Mr.Vikas Singh, Advocate for respondent no.2

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

**RAJIV NARAIN RAINA, J. (Oral)**

1. On 3<sup>rd</sup> September, 1992, this Court condensed the issue raised in this writ petition while passing the following order:-

“After hearing learned counsel for the parties, I am convinced that the workman does not deserve anything more than the back wages upto 31.12.1988 as it has been proved and so held by the Labour Court that the workman was employed under World Bank Scheme for five years and after the Scheme is over there is no work available with the employer. The petitioner-Management is, however, directed to pay the arrears to the workman within two months from today.”

2. It may be noted that on 20<sup>th</sup> July, 1992, the operation of the impugned award of the labour court was stayed *ad interim*. The interim order has

continued to operate.

3. There is no effective rebuttal to the interim finding recorded by the learned Single Judge of this Court on 3<sup>rd</sup> September, 1992. The Labour Court allowed the reference while accepting, as a point of fact, that the World Bank Scheme had come to almost an end, but had continued beyond the date of termination of services of respondent-workman when the Scheme run by the operating agency, the petitioner-Bank, was in the process of being tapered down and closed. The respondent-workman had served in the scheme for about five years from 1982 to 1986 and thereafter, the period was extended upto early 1987. The respondent-workman was employed as a Workcharge Supervisor on daily wage basis in the World Bank Scheme and when his services were no longer required in the process of winding up the Scheme, he was asked to leave.

4. In his cross-examination, the workman admitted that he was employed against specific work. The Labour Court, however, came to the conclusion that a few employees were left to serve after retrenchment of the respondent-workman and this was a circumstance which went in favour of the workman to grant him relief of reinstatement with continuity of service and back-wages. This, according to Mr. Bajwa, learned counsel appearing for the petitioner-Bank is the tragic flaw in the award where the Labour Court agrees that the Scheme has come to an end, but some workers were left to work under the Scheme which justified reinstatement. To the mind of this Court this is not a proper exercise of jurisdiction. Once the Work Bank Scheme has run its length, then the Labour Court is not justified in reasoning that those who remained in service was good enough ground to invoke Sections 25-G or 25-H of the ID Act unless it was coupled with a positive finding that those who were re-employed or were retained in

service were employed in the same or similar capacity as Workcharge Supervisors since tapering would have to be in accordance with the classification of posts remaining. It would not be possible to uphold the view of the Labour Court in the impugned award for lack of evidence on the question of same or identical post.

5. It is well settled that when a Scheme has come to an end, there can be no reinstatement. In any case, reinstatement is not awarded automatically or mechanically and several factors have to be taken into consideration in moulding the relief. However, it appears from the record that when the services of the respondent-workman were terminated or retrenched, the employer did not follow the procedure prescribed either under Section 25-F or under Section 25-O of the Industrial Disputes Act, 1947 (for short “the Act”) depending on the numerical strength of the cadres involved in the Scheme. This argument raised by the learned counsel for the workman that law was violated, may appear attractive, but on hindsight and second thoughts the fact of the matter is that the World Bank Scheme has ceased to exist and was being tapered down and there was a clear admission of the workman in his cross-examination that he was engaged against specific work which was therefore curtailed by time when the Scheme ebbed and finally died out. Further more, he knew in the beginning that he was an employee under the World Bank Scheme and had no right to continue in service as he was not directly employed by the petitioner-Bank on any of its own cadre posts. The relationship between the parties was through the World Bank Scheme from where the funds came and were operated to run the objects of the Scheme. Once the source of funds dried, there is no question of reinstatement due to inevitable non-availability of work.

6. Insofar as the monetary claims are concerned as are raised by the learned counsel for the workman it is found that indisputably the workman has been in receipt of full wages last drawn by him on the date of termination i.e. Rs.630/- per month from the date of the stay order and such payments had been made by the petitioner-Bank and the debt stands discharged. The payments under Section 17-B of the Act are substantial and it would not be justified to saddle the petitioner-cooperative Bank with any further monetary liability as it was not a direct employer but only the mediator between the World Bank Scheme and various Cooperative Societies and local Punjab State Cooperative Banks enlisted to run the objects and purposes of the Scheme sponsored by the World Bank through the petitioner Bank in the State of Punjab. The workman has had the benefit of last drawn wages under Section 17-B of the Act for a very long time and probably even beyond the age of superannuation which financials are compensatory in nature and non-recoverable in view of the law laid down by the Supreme Court in **Dena Bank vs Kiritikumar T. Patel**, (1999) 2 SCC 106. Besides, the interim order dated 3<sup>rd</sup> September, 1992 leaves hardly any room for this Court to grant any further relief to the respondent workman. The labour court fell in error in awarding reinstatement and full back wages with continuity of service to the respondent workman in the facts and circumstances of the case. This a case of closure of the activity.

7. Accordingly, the writ petition is allowed. The impugned award dated 27<sup>th</sup> January, 1992 is hereby set aside. The amounts paid to the respondent-workman under Section 17-B of the Act are held to be non-recoverable.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**18.11.2015**

**MFK**