

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.23115 of 2003

The Management of Indian Bank,
rep. by Assistant General Manager (AS)
66, Rajaji Salai,
Chennai - 600 001.

...Petitioner

Vs.

1. The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
I Floor, 'B' Wing,
26 Haddows Road,
Shastri Bhavan,
Chennai - 600 006.

2. The General Secretary,
Indian Bank Employees' Union,
25, Second Line Beach,
Chennai - 600 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records from the file of the first respondent, and to quash the impugned award, dated 30.09.2002, made in I.D.No.629 of 2001.

For Petitioner : Mr.M.Vijiyan
for M/s.King and Patridge

For Respondent-1 : Labour Tribunal
For Respondent-2 : Mr.V.Govaradhan
for M/s.Row & Reddy

ORDER

The Management of the Indian Bank, is the petitioner in this Writ Petition, and it has challenged the award passed by the Central Government Industrial Tribunal Cum Labour Court, Chennai, (hereinafter, referred to as 'the Tribunal', for the sake of brevity) in I.D.No.629 of 2001, dated 30.09.2002.

2. A dispute was raised by the second respondent-Union, on behalf of its member, by name Tmt.K.Jayalakshmi. The order of reference made by the Central Government for adjudication before the Tribunal was,

"Whether the action of the Management is justifiable in denying the permanent full-time sweeper post to Tmt.K.Jayalakshmi, who is working as a permanent part-time sweeper in the place of the vacancy caused by full-time sweeper, Smt. Chellammal, is just, proper and legal? If not, to what relief, Tmt.K.Jayalakshmi, is entitled to?"

3. Before the Tribunal, both the Management as well as the Union did not wish to lead any oral evidence. Insofar as documentary evidence is concerned, on the side of the Union, seven documents were marked, as Exs.W.1 to W.7, and on the Management's side, two documents were marked, as Exs.M.1 and M.2.

4. The Tribunal took up the case for adjudication, and after perusal of the documentary evidence adduced before it, it was pointed that the Chief Manager of Coimbatore Main Branch, has sent a letter, dated 20.12.1991, to the Zonal Office, Coimbatore, stating that the permanent part-time employee, Mrs.Chellammal is getting retired on 31.12.1991, and Tmt.K.Jayalakshmi is working as part-time sweeper at CMC extension counter, and that; she has given an application for the post of permanent part-time employment as sweeper-full scale wages in the main Branch; and as she has been working as part-time sweeper in CMC extension counter since 01.10.1975, the Chief Manager recommended her representation for permanent part-time (sweeper-full scale) posting may be considered favourably. From this, it is seen that Tmt.K.Jayalakshmi has been properly recommended by the Chief Manager himself, on the basis of her request made to the Deputy General Manager, Indian Bank, Coimbatore, through the Chief Manager, Indian Bank, Coimbatore Main Branch.

5. Further, the Tribunal pointed out that the copy of the said requisition, dated 18.12.1991, given by the said work woman, Tmt.K.Jayalakshmi, is also produced by the Union before the Tribunal. Therefore, the Tribunal observed that, if the said Tmt.K.Jayalakshmi was not eligible to be posted as a permanent part-time employee (sweeper - full scale), then, the Chief Manager of the Coimbatore Main Branch would not have recommended her name to the Zonal Office, Coimbatore for favourable consideration. Further, the Management was faulted, for not having given any reasons for not considering the recommendation made by the Chief Manager in favour of the said Tmt.K.Jayalakshmi. As regards the carrier path procedure, which was pressed into service by the Management, it was observed by the Tribunal that the said procedure came into force much earlier, i.e., 31.12.1991. Further, it is seen that the

Management has not disputed that the work woman Tmt.K.Jayalakshmi, was asked to work as permanent part-time sweeper in the place of the vacancy caused by full-time sweeper, viz., Chellammal.

6. Thus, taking into consideration the fact that Tmt.K.Jayalakshmi, was already in service, the question of calling for names from the Employment Exchange does not arise. Therefore, the Tribunal, after considering the entire factual scenario, recorded a factual finding that the action of the Management was not proper and justifiable in denying the permanent full-time sweeper post to Tmt.K.Jayalakshmi. That apart, the Management has not been able to point out, as to whether there is any perversity in the approach of the Tribunal, and the award being a reasoned award, this Court, while exercising power under Article 226 of the Constitution of India, will not re-examine the factual position, nor, would act as an Appellate Court over the factual finding recorded by the Tribunal. Thus, the petitioner/Management has not made out any case for interfering with the award passed by the Tribunal. Accordingly, the Writ Petition fails, and it is dismissed as such. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
I Floor, 'B' Wing,
26 Haddows Road,
Shastri Bhavan,
Chennai - 600 006.
2. The General Secretary,
Indian Bank Employees' Union,
25, Second Line Beach,
Chennai - 600 001.
3. The Section Officer,
VR Section,
High Court, Madras.

[31/05/2016]

1 CC TO M/s. Row and Reddy, Advocate, Sr. 12048

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