

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1926 of 2007

1. Durg Rajnandgaon Gramin Bank Workers Organization, Through Its President Ms. Saroja Iyer D/o Late K. A. N. Iyer. Trade Union Registered Under The Trade Union Act., 1926 Having Its Principal Office At Bhilai, Sector 5, Street No. 10, Qtr. No. 12/ D, Bhilai, Distt. Durg (Chhattisgarh)
2. Chhattisgarh Rajya Gramin Bank Workers Organisation (Adhoc Body), Through Its Secretary Shri Lakhan Lal Yadav, Having Its Office At C/o G. V. Rao, Street No. 14, Quarter No. 11- D, Sector 10 Bhilai, District Durg, Chhattisgarh.
3. Lakhan Lal Yadav S/o Late Shri K. R. Yadav, Aged About 48 Years C/o G. V. Rao, Street No. 14, Quarter No. 11- D, Sector 10 Bhilai, District Durg, Chhattisgarh.

---- Petitioners

Versus

1. Union Of India by Its Secretary In The Department Of Economic Affairs, Banking Division, Parliament Street, New Delhi 110001.
2. Durg Rajnandgaon Gramin Bank Through Its Chairman A Body Constituted Under The Regional Rural Banks Act. 1976 Having Its Head Office At Rajnandgaon Near Mutdakunj, G. E. Road, Rajnandgaon (Chhattisgarh)
3. National Bank for Agriculture And Rural Development Institutional Development Department Through Its General Manager, Regional Rural And Commercial Bank, Division C- 24, G- Block, Bandra Kurla Complex, Bandra East, Mumbai.
4. The Chairman-Cum-Managing Director, Dena Bank, Corporate Office, C-10, G Block Bandra Kurla Complex, Bandra East Mumbai.
5. Asst. Labour Commissioner (Central) Avanti Vihar Extension Raipur, Post Raipur, Distt. Raipur (Chhattisgarh)
6. Chhattisgarh Rajya Gramin Bank Through : The General Manager (Admin) Head Office Recreation Road Choubey Colony Raipur (Chhattisgarh) 492001.

---- Respondents

For Petitioners	: Shri Anand Dadariya, Advocate
For Respondent/Bank	: Shri N. Naha Roy, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/06/2017

1. Heard.
2. This petition under Article 226 of the Constitution of India has been preferred by the Association of Employees working in the Regional Rural Banks, aggrieved by part implementation of an award passed in their favour way back on 30/04/1990.
3. The petitioners, members of association were engaged as Sweeper and Messengers on Part Time basis in various Regional Rural Banks established under Regional Rural Bank Act, 1976. These Part Time Sweeper and Messengers were working since long and raising their grievance against exploitatative terms and conditions of working and seeking a direction for pay, salary allowance and other benefits at par with the regular employees, petition was filed by the employees Association before the Hon'ble Supreme Court. The Supreme Court suggested that reference of the dispute may be made by the Government to a National Industrial Tribunal presided over by a retired Chief Justice. Accordingly, the Government of India, vide its Notification No. 235 dated November 26, 1987, referred the dispute arising out of the writ petition filed in the Supreme Court, to the Tribunal presided over by Shri Justice S. Obul Reddi as its Chairman.

The Tribunal allowed the parties to submit their statements, recorded evidence, admitted the documents and thereafter passed a detailed award on 30th April 1990. In the award, number of benefits were directed to be extended to Part Time Sweepers and Messengers. In the matter of implementation of award, however, certain dispute arose particularly with regard to the date from which the Part Time employees were entitled to be regularized as also the date from which they were entitled to wages at par with the regular employees of the Banks. This led to filing of this petition.

4. Referring to the averments made in the petition, learned counsel for the petitioners raised twofold submissions. The first limb of argument of learned counsel for the petitioner is that as per clause 4.410 of the award, Part Time

Sweepers and Messengers were entitled to be regularized with effect from the date of their continuous engagement. He asserted that the petitioners were engaged from the dates prior to their actual date of regularization, but they have been granted regularization only from the date of the order of regularization and not from the date they were initially engaged and continued in engagement, therefore, to that extent, the award has not been fully implemented.

The second limb submission of submission is that under para 4.425 of the award, the Sweepers and Messengers who were to be regularized under the award were entitled to wages at par with the regular Bank employees w.e.f. 01/09/1987, but that has also not been extended to them and they are getting wages at par with the regular employees only from the date of regularization and not from 01/09/1987.

5. Per contra, learned counsel for the respondents submits that after award was passed, the Central Government and NABARD both issued number of implementation circulars to implement the award, individual cases were scrutinized and after due enquiry, the Sweepers and Messengers were regularized and granted regular wages.
6. The petition involves dispute with regard to date of continuous engagement which is relevant in view of what has been stated in the award in para 4.410, which is reproduced as below :-

"4.410 In view of the authoritative pronouncements of the Supreme Court, it must be held that the part-time sweepers-cum-messengers who were employed on daily wages or on half of the salary or on some other proportion of the salary of a regular messenger, will be entitled to their various claims such as equal pay and all other attendant benefits as are admissible to regularly appointed full time messengers in the respective RRBs. That there was/is no sanctioned post of a regular messenger in a branch or the head office is absolutely

irrelevant and immaterial in view of the proved facts that the so called part time messengers whether on daily wages or on some other basis, were made to work full time by their respective managements. The Managements cannot extract full time work and even beyond the working hours from the so called part-time messengers by merely showing them in the acquittance rolls as part-time employees paid on either daily wages; or some other basis; or on some proportionate basis. Their services shall be regularised with effect from the date of their continuous engagement. If deemed necessary it will be open to the Government or the RRBs as the case may be, to sanction the required number of posts to accommodate the writ petitioners and all those belonging to their class.”

7. It is clear from the reading of the award as above that the messengers and sweepers are not only entitled to be regularized but also to be regularized from the date of their continuous engagement. The petitioners have made averments that they have been working continuously ever since their initial date of appointment and a specific plea to that effect has been made in para 5.9 of the petition. In support of this plea, a chart has also been prepared and submitted before this Court as Annexure P/2, however, the respondents have denied. The respondents have not come out with any material documents to satisfy the Court that the petitioners' date of continuous engagement was from any subsequent date as compared to the date claimed individually by the members of the petitioners-association. In fact, the respondents have not come out with any record before the Court. In any case, the regularization from the date the orders were passed is not at all justified and it cannot be said to be in full implementation of the award. Therefore, in these circumstances, bare denial on the part of the respondents is not enough. The dates of initial engagement as specified in Annexure P/2 appended with the petition are liable to be accepted by the respondents unless they are possessed of any documents or record that the services were discontinued later on and then fresh engagement had taken

place. If the respondents have any such document in their possession, in that case the petitioners' Sweepers and Messengers will be entitled to regularization from the said date otherwise from the date of their initial engagement as has been stated Annexure P/2. The entire exercise should be completed within an outer limit of three months and appropriate orders of regularization from due date should be passed by the respondents-Bank without fail.

8. As far as the date from which the Sweeper and Messengers are entitled to get wages at par with the regular employees, is also clearly stipulated in the award in para 4.425, which is reproduced as under :-

"4.425 What flows from my findings is that the Officers and other employees of RRBs will be entitled to claim parity with the Officers and other employees of the Sponsor Banks in the matter of pay scales, allowances and other benefits. What stems from this finding is the date from which effect should be given to the Award. I have given my anxious consideration as to the date from which the Award should be given effect. The Writ Petition No. 7149-50/82 and 132/84 were not filed at one and the same time. They were filed on different dates. Petitioners in W.P. Nos. 7149-50/82 claimed reliefs from the date of establishment of RRBs. Petitioners in W.P. No.132/84 did not specify any date but in their claim statement filed before me they have asked for effect being given from the date of Writ Petition i.e. 16-09-1984. I think it would be proper, just and reasonable, if I direct that the Award shall be given effect from 01st day of September, 1987, the date on which the Supreme Court passed the order directing the Central Government to constitute the Tribunal."

9. A bare perusal of the above shows that the date from which parity was to be given effect to, was 01/09/1987. There is no reason why the petitioners should not be granted this benefit from due date which is crystal clear from the award itself. The respondents shall extend this benefit to the petitioners

and the difference of wages shall be calculated and paid to the petitioners within a period of six months. The petition is accordingly allowed in the manner and to the extent indicate above.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Kamde