

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM

**THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**

**W.A.No.617 of 2017
and
C.M.P.No.8603 of 2017**

1. The Deputy General Manager,
Canara Bank, HRM Section,
Circle Office,
No.563/1, Anna Salai,
Teynampet, Chennai 600 018.
 2. The General Manager,
Personnel Wing,
Canara Bank, Head Office,
112 J.C. Road, Bangalore 560 001.
- Appellants

Versus

1. Central Government Industrial
Tribunal cum Labour Court,
rep. by its Presiding Officer,
1st Floor, B Wing,
No.26, Haddows Road,
Shastri Bhavan, Chennai 600 006.
 2. K.V.Raman
- Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.2.2017 passed in W.P.No.14147 of 2011 on the file of this court.

For appellants	: Mr.P.Raghunathan for M/s.T.S.Gopalan and Co.
For R2	: Mr.Vijay Narayan, Senior Counsel for M/s.V.J.Latha

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed challenging the order passed by the learned Single Judge granting the relief of stagnation increment to the second respondent herein.

3. The facts behind the filing of the writ appeal is as under:-

The second respondent herein had joined the appellant-Bank as Stenographer on 5.5.1977, subsequently, he was redesignated as Clerk in the year 1983 and promoted to the Officer category on 1.11.1983, however, on 7.2.1987, reverted to the post of Clerk at his request. Prior to his promotion to the Officer Category viz., on 8.9.1983, there was a IV Bipartite Settlement was entered into by the appellant bank. The second respondent herein had reached his maximum payscale in the year 1991. Subsequently, the VI Bipartite Settlement was entered into by the Bank on 14.2.1995. Whiles, relying upon the IV Bipartite Settlement, the stagnation increment was granted to the second respondent herein initially, however, later, relying upon the VI Bipartite Settlement, the same was denied. The question of correctness of such denial was raised before the Assistant Commissioner of Labour and since it ended in failure, the same was posed before the first respondent-Tribunal wherein also, it ended against the second respondent and hence, he moved the writ petition and succeeded in getting the relief.

4. The stand of the learned counsel appearing for the appellants is two fold. One is that the scope of granting the stagnation increment is not properly appreciated by the learned Single Judge since according to the appellants, reversion on the request of the employee also amounts to refusal to continue the promotion and hence, he would not be entitled to get the stagnation increment. The other contention is that sub clause (ii) of clause 5(c) of the Bipartite Settlement dated 14.2.1995 is an exception carved out of the refusal to accept promotion for grant of stagnation increment.

5. After going through the materials placed before us and the order passed by the learned Single Judge, we find that the issue of granting stagnation increment swings between two aspects, one being natural stagnation without any promotion and the other being stagnation at the instance of the employee, which would be either by way of refusal to accept the promotion offered by the Management at the inception itself or by way of reversion to the earlier post at his own request. The issue in the case on hand also revolves around two Bipartite Settlements, one being IV Bipartite Settlement dated 8.9.1983 and the other being VI Bipartite Settlement dated 14.2.1995. It is not in dispute that the second respondent was initially granted the stagnation increment in the year 1983 when he sought for reversion to the post of Clerk and by that time, the IV Bipartite Settlement was in force and the stagnation increment was withdrawn after introduction of VI Bipartite Settlement.

6. While dealing with the scope of granting the stagnation increment, it has to be noted that irrespective of the fact that the stagnation may be one invited by the employee, the indisputable fact is that he is at some monetary loss and he gives way to the other person who is in queue though it may be to suit is convenience. The scope of granting the stagnation increment in the case on hand is tangled with the first argument made by the learned counsel appearing for the appellants to the effect that reversion at the instance of the employee after having accepted the promotion offered by the Management amounts to refusal to accept the promotion. Had it been so in the wisdom of the Management earlier, it would not have granted the stagnation increment itself to the second respondent initially and further, the clause which relates to refusal to accept the promotion contained in IV Bipartite Settlement would have dealt with the disentitlement specifically in case of request for reversion. Per contra, there is an elaborate description of the same in VI Bipartite Settlement by way of two sub-clauses, one giving clearance for grant of stagnation increment provided the refusal is within a year of acceptance of the promotion and the other making clear that he would not be entitled to get the same if he opts for reversion after one year. This itself goes against the version of the appellants that such a clause is carved out of the 'refusal clause' contained in IV Bipartite Settlement. Therefore, the arguments of the learned counsel appearing for the appellants necessarily have to fall to the ground.

7. At this juncture, the learned counsel appearing for the appellants would rely upon the decision of the Delhi High Court in CANARA BANK V. V.K.GROVER (2008(102) DRJ 197) and decision of this court in W.A.No.20 of 2013 dated 6.9.2016 to substantiate his contention that reversion at the instance of the employee will disentitle him to claim the stagnation increment.

8. On going through the above decisions, we find that the employee in the first case had been reverted at his instance only on 3rd February 1989 and by that time, V Bipartite Settlement had been come into force based on which, stagnation increments would not be given to an employee who, at any time after the commencement of the 8th September, 1983 settlement and after being offered or selected for promotion refuses to accept such promotion. In the second case cited also, the denial of stagnation increment is based upon the fact that he was reverted at his instance on 1.9.1990 and therefore, he was also governed by the V Bipartite Settlement. Therefore, we are of the view that the case on hand stands on a different footing. When the second respondent herein was reverted at his instance, only IV Biparte Settlement was in force which was not specific about such aspect viz., reversion at the instance of the employee would also amount to refusal to accept promotion and with regard to entitlement or disentanglement for stagnation increment in such cases.

9. In view of the above, we do not find any reason to interfere with the well reasoned findings of the learned Single Judge. Accordingly, the writ

appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

(H.G.R.,J.)(T.K.R.,J.)

20.11.2017.

Index:Yes
Internet:Yes/No
ssk.

To:

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