

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.17922 of 2001

ORDER:

The petitioner, who worked as Clerk-cum-Cashier in the respondent Bank, filed this writ petition, seeking to issue a writ of mandamus, declaring the proceedings No.HCO/PER/530/2001, dated 04.08.2001, issued by the respondents, whereby the request of the petitioner for sanction of graduation increments was rejected, as illegal, arbitrary and contrary to the rules.

Brief facts of the case are that in January, 1989 the petitioner was appointed as Clerk-cum-Cashier with SSC qualification in the respondent bank. When he was working as such, the Bank has entered into a bipartite settlement, as per which, the employee, who acquired graduation qualification on or after 01.07.1990 are entitled to two additional increments. The petitioner acquired post graduation degree from Osmania University under the Open University System in December, 1997. The Committee consists of Pancha Pargesa Sastry, retired Judge of High Court of Madars as Chairman and two members, passed an Award, which was published on 26.03.1953, which is commonly known as "Sastri Award". As per the said Award, the graduates are entitled to two additional increments in basic scale of pay for acquiring graduation qualification. The employees who joined in the Bank on acquiring the graduation degree were entitled to two additional increments in the basic pay. Subsequently, vide settlement, dated 10.04.1989, instead of granting two additional increments, it was agreed to grant graduation allowance in lieu of two advance increments. The employees who also

acquired after joining service are extended the same graduation allowance. Thereafter, the graduation employees are allowed to grant two additional increments instead of graduation allowance, vide modified settlement, dated 29.06.1990. But the petitioner was not given graduation allowance on the ground that he acquired post graduation degree without graduation. He made representation to the respondents, his representation was considered and rejected by the impugned proceedings, dated 04.08.2001, against which, the present writ petition is filed.

Smt.K.Udayasri, learned counsel, appearing for the petitioner, has contended that the petitioner is entitled for graduation allowance as he obtained post graduation degree, which is higher qualification than the graduation. Graduation allowance is given only to the employees of the respondent bank, who acquired the graduate qualification and more proficiency in service as beneficial to the employer bank. The petitioner acquired post graduation and also more proficiency, which is beneficial to the employer bank. The learned counsel mainly contended that in similar set of circumstances, when a post graduate employee denied graduation allowance, he approached the High Court of Bombay at Goa by filing W.P.No.446/1993, and the said writ petition was disposed of in favour of the petitioner therein on 18.09.1998. As per the said judgment, the Bank Staff Union sought clarification and requested the Indian Banks Association to release instructions to all its Member Banks stating *inter alia* that the clerical cadre employees who have done their post graduation without doing graduation shall also be paid two advance increments from the date the employee becomes post graduate. The learned counsel emphatically submitted that as per the judgment of the High Court of

Bombay in W.P.No.446/1993, dated 18.09.1998, several employees who acquired post graduate degree are being paid graduation allowance, but she could not place any judgments or instances before this court, where the employees who acquired post graduation are being paid graduation allowance.

Sri Ambadipudi Satyanarayana, learned counsel, appearing for the respondents, has contended that graduate increments and allowances are being paid only to the persons, who acquired graduation qualification, as per rules. The petitioner acquired post graduation qualification without graduation qualification. The petitioner filed W.P.No.6285/2000 and the same was disposed of on 28.07.2000 directing the authorities concerned to consider the representation of the petitioner for payment of graduation increments and the same was considered and rejected by the impugned proceedings, dated 04.08.2001.

Learned counsel for the petitioner submits that this writ petition was filed in the year 2001, thereafter, as per the subsequent bipartite settlements and circular clarifications, the employees, who are similarly situated to that of the petitioner, who acquired post graduation without passing graduation, were being paid graduation increments and allowances, as per law and as per judgment of the High Court of Bombay in W.P.No.446 of 1993, dated 18.09.1998.

In view of the above submission of the learned counsel for the petitioner, without going into the merits of the case, the writ petition is disposed of, directing the petitioner to make a representation afresh to the respondents asserting his rights for grant of graduation increments on circular instructions and the subsequent successive events, and on filing

such representation, the respondents shall consider the same and pass appropriate orders thereon, in accordance with law. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.GANGA RAO,J

Date: 17.07.2018
Dsr

