

M/L 884
08.11.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16173 of 2022
(Assigned)

Punjab National Bank Canteen Workers' Union & Ors.
v.
Union of India & Ors.

Mr. Supriya Chattopadhyay
... For the petitioners

Mr. Kishore Datta
Mr. S. Pal Choudhury
... For the respondents

1. Supplementary affidavit filed in Court today on behalf of the petitioners is taken on record.
2. The instant writ petition has been filed, *inter alia*, praying for a direction upon the respondents to forthwith take a decision in terms of the representation dated 31st August, 2021 and the order dated 24th August, 2021 passed by the Hon'ble Supreme Court of India in Contempt Petition (C) No. 374/2021 arising out of Civil Appeal No. 5112 of 2017.
3. It is the petitioners' case that the petitioner nos. 2 to 21 are the employees of Punjab National Bank. According to the petitioners, in various offices and branches of Punjab National Bank, canteens had been set up since the year 1975. Such canteens were meant for serving tea, lunch and other snacks to the employees of the bank working in the respective branches.

4. The writ petitioners along with others employees of such canteen had approached this Court for regularization of services. At the instance of the petitioners by an order dated 22nd August, 2003, a Coordinate Bench of this Court by declaring the petitioners as employees of the bank, however, taking into consideration the nature of job performed by the canteen employees which are different from the work performed by other general employees of the bank, directed the respondents to appoint a committee of experts for the purpose of fixing of pay scale of the petitioners taking into consideration the work required to be done by the canteen employees, bearing in mind the principle of equal pay for equal work. Such committee was directed to fix the scale of pay and qualifications consistent with the nature of job they were required to do and the petitioners were directed to be given the scale of pay as per the decision of the committee. The challenge to the aforesaid order which was registered as MAT 2386 of 2003, renumbered as FMA 1870 of 2003, did not succeed and the Hon'ble Division Bench was, *inter alia*, pleased to affirm the directions issued by the learned Single Judge and consequentially dismissed the appeal.

5. The matter then travelled to the Hon'ble Supreme Court and ultimately by an order dated 25th September, 2018, the Hon'ble Supreme Court by invoking its power under Article 142 of the Constitution of India was, *inter alia*, pleased to issue the following directions:-

“In this hotly contested appeal, the surviving issue is solely with regard to the claim made by the 29 canteen workers whether they are represented through the union or otherwise, for absorption.

Having heard the learned counsel appearing for the Bank and having heard the learned Senior counsel appearing for the workmen and having regard the various orders passed by this Court, we are of the considered view that this is a fit case to invoke our jurisdiction under Article 142 of the Constitution of India and give a quietus to the dispute.

In the peculiar facts and circumstances of this case, we direct the appellant – Punjab National Bank to appoint 29 canteen workers forthwith on the following conditions: -

- (i) They shall be paid half wages of the Class-IV employees or prevailing minimum wages in the State, whichever is higher;*

- (ii) *All other benefits which have been granted to the 23 canteen workers already appointed will also be extended to the 29 workers covered by this order;*
- (iii) *There shall be no other or further claim on this count from the workmen;*
- (iv) *The benefits, as above, shall be extended to the 29 workmen from the first date of appointment of the 23 workmen”.*

6. It appears that according to the petitioners since, the aforesaid order was not adhered to, a contempt application was filed before the Hon’ble Supreme Court. By an order dated 24th August, 2021, the Hon’ble Supreme Court was, *inter alia*, pleased to dispose of such application by observing as follows: -

“Insofar as the past benefits are concerned, we had given parity to the 29 petitioners with the 23 canteen workers who had already been appointed. This parity is sought to be worked out on the basis that since first of these canteen workers was given 1/3rd scale of wages of Class IV employees, that parity has been so granted (para 5.2 of the counter). We make it clear that the principle of half the wages cannot apply to the past arrears which has to be on the basis of what was paid to the other 23 workers.

If there is still any amounts due, the respondents should work it out and remit the same within a period of six weeks from today.

In order to facilitate this disbursement, the petitioners will make a claim which according to them is due as per our order dated 25.09.2018, as explained today, within one week from today”.

7. The petitioners would contend that in terms of the aforesaid direction the petitioners had filed a claim petition before the respondent bank on 31st August, 2021. The particulars of the claim as appearing at page 141 of the writ petition are extracted hereinbelow:-

Sl No.	Head	Amount.
a)	Yearly Medical Aid with effect from 28 th June, 2000, that is, the date from which the arrear salaries was calculated and paid	Rs.34079/-
b)	Encashment of Perquisites with effect from 28 th June, 2000 that is, the date from which the arrear salaries was calculated and paid;	
	i) Cost of Monthly Newspaper	Rs.11700/-
	ii) Monthly Washing Allowance	Rs. 20175/-
C)	Encashment of Leave Fare concession (LFC) with effect from 28 th June, 2000 that is, the date from which the arrear salaries was calculated and paid	Rs.10365/-
d)	Encashment of Yearly Bonus with effect from 28 th June, 2000 that is, the date from which the arrear salaries was calculated and paid	Rs.62781/-
e)	Arrear of salaries as per 11 th BPS w.e.f. 1 st November, 2017 to 20 th January, 2019	Rs.21242.43

8. Since, according to the petitioners the aforesaid claim petition has not been disposed of, the present writ petition has been filed.
9. Records would reveal that a report on affidavit was filed by the respondent bank on 16th March, 2023. From the perusal of the aforesaid report, it would transpire that the respondent bank has attempted to make out a case that since, the petitioners did not perform any job of subordinate cadre, they are not entitled to salary and other benefit meant for the subordinate cadre though in the said report it has been expressly indicated that medical aid had been provided to the petitioners with effect from 28th June, 2000 i.e. the date from which the arrear salary was calculated and paid. The said report does not specifically deny the claim of the petitioners, although, in respect of certain claims it has been provided that the benefit sought for by the petitioners in respect of certain claim can only accrue after such persons have joined service and have been absorbed, and not from any prior date, yet from the records it would be clear that there has been acceptance and payment of the benefits to the petitioners with effect from 28th June, 2000. It however, appears that the respondents have attempted to rely on bipartite settlements as regards payment of arrears, though, on a perusal of the order dated 25th September, 2018

which forms the basis of the petitioners' claim, it would transpire that the Hon'ble Supreme Court in clear and in no uncertain terms had provided that no settlement as prevailing shall stand in the way, for giving effect to the order as indicated therein.

10. Having regard thereto, and having considered the materials on record including the supplementary affidavit as disclosed by the petitioners in Court today and in particular page 18 thereof, wherefrom it would transpire that the benefits have been afforded to the petitioners with effect from 28th June, 2000, I am of the view that the respondents, at this stage, cannot hold back the determination of the petitioners' claim and should forthwith in compliance of the direction passed by the Hon'ble Supreme Court decide on the petitioners' claim dated 31st August, 2021, forming annexure P-7 to the present writ petition, upon giving an opportunity of hearing to the petitioners, as expeditiously as possible preferably within a period of six weeks from the date of communication of this order. While taking a decision, the respondents must give due regard to the directions issued by the Hon'ble Supreme Court as also take note of the effective date from which benefits have already been afforded.
11. The claim petition of the petitioners must be disposed of by passing a reasoned order by taking note

of the observations made hereinabove and the direction issued by the Hon'ble Supreme Court on 24th August, 2021.

12. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)