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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.10.2024

Pronounced on: 07. 11. 2024

Coram:

THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

W.P.No.785 to 788 of 2011
and MP.Nos.1, 1, 1 and 1 of 2011

The Branch Manager,
State Bank of India,
Zonal Office,
Trichirappalli 620 008.

...Petitioner

in all WPs

Vs.

1.The Central Government Industrial
Tribunal-cum-Labour Court, Chennai
1st Floor, B-Wing, 26, Haddows Road,
Shastri Bhavan, Chennai – 600006
WPs

...R1 in all

2. B.Rangaraj,
Vaithur village & Post,
Pudukottai

...R2 in W.P.No. 785/2011

3. V.Elayaperumal
Solankudikadu Village & Post,
Mathur Via, Ariyalur Taluk,
Trichy District.

...R2 in W.P.No.786/2011

4. C.Rathinasamy,



South Street, Varadarajanpettai village & post,
Perambalur District 621 805

...R2 in W.P.No.787/2011

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5. M.Selvam,
1/5, Mariamman Koil Street,
Ariyalur 621 704

...R2 in W.P.No.788/2011

Prayer in all the WPs:

Writ Petitions filed under 226 of Constitution of India to issue a Writ of Certiorari or any other writ in the nature of Certiorari and to call for the records from the 1st Respondent relating to I.D.Nos.22 of 2007, 25/2007, 24/2007 and 23/2007 and the common Award dated 27.7.2010 on the file of the Central Government Industrial Tribunal-cum-Labour, Chennai of the 1st Respondent herein and quash the Award dated 27.7.2010 made in I.D.Nos.22 of 2007, 25/2007, 24/2007 and 23/2007 in so far as it relates to the 2nd respondent in W.P.No. 785 of 2011, 2nd Respondent in W.P.No.786 of 2011, 2nd Respondent in W.P.No. 787 of 2011, 2nd Respondent in W.P.No.788 of 2011 and its proceedings and pass such other or further orders as may be deemed fit in the circumstances of the case.

Appearance of Parties:

For Petitioners : Mr.G.Anandhakrishnan,
for M/s. T.S.Gopalan & Co
in all Writ petitions

For R2 :Mr.G.Mutharasu
in all writ petitions

COMMON ORDER



Heard both sides.

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2. The Petitioner is the State Bank of India represented by its Branch Manager at their Zonal Office, Trichirappalli. Aggrieved by the common award passed by the First Respondent Central Government Industrial Tribunal (CGIT) at Chennai made in I.D.No.22 to 25 of 2007 dt. 27.7.2010 these writ petitions were filed by them.

3. The 1st Respondent CGIT by its Common Award granted the following relief to the 2nd Respondent workmen in all the WPs:-

“In the result all the petitioners in ID 22/2007, 23/2007, 24/2007 and ID 25/2007 are entitled to be reinstated into service forthwith with continuity of service and all attendant benefits but they are not entitled to back-wages for the whole period during which they remained out of employment of Respondent. After reinstatement into service the Management may start a process for the regularization of the workmen if and in accordance with the rules in vogue they are entitled to the same.”

4. In the writ petition filed by the Petitioner Management initially on 18.1.2011, notice of motion was ordered and an interim stay was granted for two weeks. Subsequently the WPs were admitted on 5.8.2011. When the matters came



up on 14.9.2021, this court after hearing the Petitioner Management suggested the

Respondent to explore the possibility of resolving the dispute by accepting a

compensation. The counsel for the Respondent workmen by their letter dated

17.9.2021 sent a proposal which is as follows:-

Name of employee	Date of joining and date of termination	Last Drawn salary	Sec.17B amount paid so far up to September 2021	Present Salary	Date of Super annuation	1/3 rd of salary from 27.07.2010 (Date of Award) to till date of superannuation	Gratuity 15 days salary for every year taken from last drawn salary for the period 21.11.1987 to 11.03.1993 and 1/3 rd of present salary from Date of termination to till Date of superannuation
B.Rangaraj W.P.No.78 5/2011	21.11.1987 11.03.1993	Rs.2500/-	Rs.3,23,500/-	Rs.45,000/-	11.05.2029	Rs.33,90,000/- (226 Months)	Rs.2,70,000/-
V.Elayaperumal W.P.No.78 6/2011	11.07.1986 25.01.1997	Rs.3600/-	Rs.4,40,000/- (Sec.17 B payment stopped from June 2020)	Rs.45,000/-	10.06.2020	Rs.17,85,000/- (119 Months)	Rs.2,14,800/-



C.Rathina samy W.P.No.78 7/2011	15.09.198 7 31.12.199 1	Rs.3500/-	Rs.4,42,500/-	Rs.45,0 00/-	02.09. 2028	Rs.32,10, 000/- (218 Months)	Rs.2,77,000/-
M.Selvam W.P.No.78 8/2011	09.09.198 8 20.08.199 3	Rs.3900/-	Rs.4,90,100/-	Rs.45,0 00/-	23.06. 2032	Rs.39,45, 000/- (263 Months)	Rs.2,94,750/-

5. As no settlement was reached, the matter was scheduled for final disposal. The case of the workmen was that they were in the bank as temporary sub-staff and all four of them were engaged on different periods. Notwithstanding their completing 480 days of service within a period of 24 calendar months, they have not been made permanent as per the provisions of The Tamil Nadu Conferment of Permanent Status Workmen Act, 1981. They moved the Inspector of Labour, Trichirappalli who is a competent authority under the Act for grant of permanent status. The Petitioner bank contended that the matter was covered by a settlement under Section 18(1) of the I.D.Act entered into between the bank and the employees federation during the years 1987, 1988 and 1991.



6. As per those settlements, a list of temporary employees were prepared and the workmen who are in temporary employment were included in the list. As and when vacancies arose, the candidates from the waiting list were absorbed permanently in accordance to their seniority in the waiting list. Further, the bank also disputed the total number of days said to have been worked by the workmen herein.

7. The Inspector of Labour, competent authority under the permanent status act, considered all these aspects after due notice to parties and held that each of the workmen were eligible for grant of permanent status from the date they had completed 480 days of service within a period of 24 calendar months. He also declared that the four respondent workmen herein were eligible to be granted the permanent status w.e.f. the date which is noted below:-

Name of the Employee	Writ Petition No. and I.D.No.	Date of disengagement	Date of granting Permanent status based on application filed on 11.12.1995
B.Rengaraj	WP No.785 of 2011 I.D.No.22 of 2007	11.03.1993	01.01.1993
V.Elayaperumal	WP No.786 of 2011 I.D.No.25 of 2007	25.01.1997	01.01.1992
C.Rathinasamy	WP No.787 of 2011 I.D.No.24 of 2007	31.12.1991	01.01.1992
M.Selvam	WP No.788 of 2011 I.D.No.23 of 2007	20.08.1993	01.01.1991



8. Instead of conferring the permanent status as ordered, the bank took the stand that the services of the workmen were already terminated. Therefore, as against the denial of employment, the workmen raised an industrial dispute before the Central Government, labour department in December 1997. However, the central govt. through its Ministry of Labour, by an order dt. 30.12.1999 declined to refer the dispute for adjudication. As against the denial of the reference, the workmen prepared a writ petition before this court in W.P.No.4777 of 2003 and sought for a reference. That writ petition came to be allowed by order dt. 29.1.2007 and the Central Government was directed to refer the dispute for adjudication.

9. In the meanwhile, aggrieved by the order of the Inspect of Labour dt. 31.1.1997, the petitioner bank filed W.P.No.17576 of 1997 before the High Court. The said writ petition was allowed by a common order dt. 7.9.2006. As against the said order, the workmen preferred four Writ Appeals being W.A.No. 1372 of 2006 to 1375 of 2006 before the Division Bench. The Division Bench by a common order dt. 8.1.2007 disposed of the writ appeals. It was held that the Permanent Status Act will apply to the banks and that the order of the single judge was erroneous. Hence the matter was remanded to the single bench for fresh



disposal. As against the said order, the bank has preferred SLPs which are pending as Civil Appeal Nos. 6015 to 6018 of 2010 and are yet to be disposed of.

10. In the meanwhile, on the basis of the direction given by the High Court, the Central Government by its order dated. 12.3.2007 referred all the four disputes for adjudication by CGIT. The disputes were taken on file by the first respondent CGIT as ID Nos. 22/2007 to 25/2007. The Terms of Reference was that whether the Management of the State of Bank of India in terminating the services of these four workmen as temporary messengers is legal and justified? And if not to what relief they are entitled to?

11. The CGIT issued notices upon the receipt of the reference. The four workmen individually filed claim statement dated 29.9.2007 and sought for a relief that their non-employment was illegal and arbitrary and for a consequential direction to direct the bank to provide regular and permanent employment together with backwages, continuity of service, all increments and attendance benefits. The petitioner bank filed a separate counter statement dated 4.2.2008. The CGIT clubbed all the four disputes and conducted a joint trial. The four workmen examined themselves as WW1 to WW4 and on their side they filed 39 documents which were marked as W1 to W39.



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12. On the side of the bank, they examined one Mahalingam, Manager working in Zonal Office, Trichy as MW1 and one C.Mariyappan as MW2. On their side they filed 8 documents which were marked as Ex.M1 to M8. Conscious of the pendency of the case before the Supreme Court regarding the application of Permanent Status Act, the CGIT avoided any reference to the provisions of the Act or the order passed by the Labour Inspector. It gave the following finding for grant of relief to all the four workmen in para 15 of the impugned award and it is as follows:-

“As already mentioned Conferment of Permanent Status is not germane for consideration at this stage due to the stay of the Apex Court. The case of the petitioners is that they are not parties to the settlement and therefore they are not bound by the settlements. Therefore, the claims of the petitioners, in order to sustain, should proceed and be substantiated by the fact that they have actually worked continuously for a period of not less than 1 year from the dates of their initial engagement. While it is asserted by the petitioners that they have completed 240 days continuous duty from the date of their engagement till the date of termination, the same is keenly denied by the Respondent. However, going by the records it could be seen that the petitioners case is true and the Respondent’s case tends to be false as to this aspect. The impugned delay in raising the ID or in the reference also does not assume significance in view of the fact that discernibly the matter was being agitated authorities or courts during the interregnum. Therefore, their termination without compliance of Section -25F of the ID Act is illegal and unjustified, the same being



without notice or notice pay or the compensation payable on termination.”

13. The contention raised by the Petitioner bank was that the matter is covered by the settlements between the bank and the employees federation by which the list of candidates who are to be absorbed were prepared and that no other person can claim any right. The workmen herein have not completed 240 days of service and therefore they have no legal right. They have also raised an issue that since the workmen were not sponsored through employment exchange for any employment in the bank, they cannot get any direction to regularization. Strong reliance was placed upon the judgment of the Supreme Court in **Uma Devi Vs. State of Karnataka** reported in **2006 (4) SCC 1**.

14. It was also contended that the workmen have not completed 480 days of service within a block period of two calendar years. Any claim for their employment can never be countenanced by court. The impugned award failed to record the findings as to the number of days they were engaged and the CGIT also did not give any finding as to when these workmen were terminated from service. Any direction for their reinstatement is against the judgment of the Supreme Court in **Range Forest Officer Vs. S.T.Hadimani** reported in **2002 (3) SCC 25**. References were also made to several other decisions which had laid down similar



line of reasoning. It was also strongly contended that Elayaperumal who was the Respondent in W.P.No. 786 of 2011 was a wait listed candidate and he could be considered for absorption if he gets sufficient seniority.

15. The counsel for the Petitioner bank also relied upon several decisions of this court and Supreme Court. The first was reference to an order passed by Justice R.S.Ramanathan, a retired Judge of this Court dated 31.1.2020 who was appointed by the Supreme Court in the case relating to **State Bank of India Vs. Chinnaponnu & Anr.** and other cases in civil appeal nos. 6883 and 6884 of 2016 and batch cases. In the operative portion of the order, he gave the following direction: -

“Considering the long period of litigation and the number of persons affected and considering the various aspects as stated above in my opinion a sum of Rs.50,000/- to each temporary employees / Respondents before the Hon’ble Supreme Court payable by the State Bank of India would meet the ends of Justice. Therefore, I direct the State Bank of India the petitioner before the Hon’ble Supreme Court to pay a sum of Rs.50,000/- to each of the Respondents / temporary employees before the Hon’ble Supreme Court within a period of one month from the date of receipt of this order.”



16. In Writ Appeal No.817 of 2015, a division bench of this court by its order dated 23.7.2018 while dealing with the Award of the CGIT in I.D.No.59/2007 dt. 17.5.2010 in relation to one D.L.Sekar granted Rs.2 lakhs as compensation for violation of precondition of Section 25F of the I.D.Act by the bank. Again another learned judge in W.P.No.27931 of 2006 filed by the bank while dealing with the Award of the CGIT in I.D.No.376/2004 dated Nil relating to one S.Nagarajan followed another division bench order and granted a compensation of Rs.2 lakhs.

17. It must be noted that for violation of the mandate of Section 25-F of the I.D.Act courts have granted reinstatement with all attendant benefits. The following decisions can be relied on in that regard: -

- 1.Deep Chandra Vs. State of Uttar Pradesh & anr, 2001 (3) LLN 820
- 2.Executive Engineer & Anr. Vs. Lekh Raj & anr., 2005 (12) SCC 181
- 3.Harjinder Singh Vs. Punjab State Warehousing Corporation, 2010(3) SCC 192
- 4.Anoop Sharma Vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497

18. The counsel for the workmen also relied upon the judgment of the Supreme Court in **Durgapur Casual Workers Union and Ors. Vs. Food Corporation of India and Ors** reported in **2015 (5) SCC 786** wherein the



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Supreme Court refused to go into the question of the so-called illegality in their initial appointment and held that in case of Section 25-F violation, the relief should be one of reinstatement with backwages. In para 24 to 26 it was held as follows:-

“In this background, we are of the view that it was not open to the Division Bench of the High Court, particularly in absence of any such plea taken by the Corporation before the Tribunal to come to a finding of fact that initial appointments of workmen were in violation of [Articles 14](#) and [16](#) of the Constitution of India, nor it was open to the High Court to deny the benefit to which the workmen were entitled under item 10 of Part I of the Fifth Schedule of the Act, the Tribunal having given specific finding of unfair trade practice on the part of the Management of the Corporation.

Having accepted that there was unfair trade practice, it was not open to the Division Bench of the High Court to interfere with the impugned award.

For the reasons aforesaid, we aside the impugned judgment dated 25th February, 2009 passed by the Division Bench of the High Court at Calcutta in F.M.A. No.2345 of 2005 (C.A.N.8685 of 2007 and C.A.N.4726 of 2008). Award dated 9th June, 1999 passed by the Tribunal in Reference No.21 of 1996 as affirmed by the learned Single Judge by order dated 18th February, 2005 in W.P. No.21368 (W) of 1999 is upheld. The respondent- Corporation is directed to implement the Award from its due date as ordered by the Tribunal. The appeal is allowed with aforesaid observations and directions. No costs.”

19. The learned counsel also relied upon another judgment of the Supreme Court where the application of Uma Devi's case was not accepted. In the decision



in **Om Prakash Banerjee Vs. State of West Bengal and Ors.** reported in **2023**

SCC OnLine SC 771, in paras 26, 29 and 30 it was held as follows:-

“However, in the present case, as we have observed, the Appellant was appointed as a casual worker in 1991. While the services of other co-employees were regularised, that of the Appellant and some others was left out. The High Court in its Order dated 03.09.2010 passed in Writ Petition No. 17892 of 2010 has also recorded the Respondents’ submissions that resolutions pertaining to the Appellant’s absorption are already in place and the same have been sent for necessary approval. Therefore, the judgment rendered in Umadevi (supra) will not apply to the facts and circumstances of the present case.

The principles of natural justice, too, demand that the Appellant cannot be denied the benefit of the regularisation of services when his similarly placed fellow employees have been granted the said benefit.

Therefore, we do not agree with the view taken in the impugned judgment of the High Court as well as by the learned Single Judge in Writ Petition No. 31399 (W) of 2017. The Appellant herein, in our considered opinion, is entitled to receive back wages and benefits from 1991, along with an interest of 10%.”

20. He also referred to the latest decision of the Supreme Court in **Mahanadi Coalfields Ltd Vs. Brajrajnagar Coal Mines Workers’ Union** reported in **2024 SCC OnLine SC 270** and referred to the following passage found in paras 28 to 30 which are as follows: -

“The above-referred facts speak for themselves, and that is the reason why the Tribunal has come to a conclusion that the denial of regularization of the 13 workmen is wholly unjustified. As stated



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previously, we do not find any grounds in the artificial distinction asserted by the appellant. However, as the case was argued at length we thought it appropriate to give reasons for rejecting the appeals. What we have referred to herein above are all findings of fact by the Tribunal as affirmed by the High Court. In view of the concurrent findings of fact on the issue of nature of work, the continuing nature of work, continuous working of the workmen, we are of the opinion that there is no merit in the appeals filed by the appellant.

This is a case of wrongful denial of employment and regularization, for no fault of the workmen and therefore, there will be no order restricting their wages.

With respect to payment of backwages, we are of the opinion that the workmen will be entitled to backwages as observed by the Industrial Tribunal. However, taking into account, the longdrawn litigation affecting the workmen as well as the appellant in equal measure and taking into account the public interest, we confine the backwages to be calculated from the decision of the Tribunal dated 23.05.2002. This is the only modification in the order of the Tribunal, and as was affirmed by the judgment of the High Court.”

21. Since the counsel for bank management cited some orders where in lieu of reinstatement the court had fixed the compensation maximum at Rs.2 lakhs. The learned counsel for the workmen cited an order passed in respect of the same bank in Civil Appeal No.6964 of 2016 in **Personal Manager, State Bank of India Vs. C.V.Srinath** dated 11.1.2018 where a three-judge bench quantified the compensation at Rs.12 lakhs. The operative portion of the order is as follows: -

“In pursuance of our earlier order, the judgment passed by the Madras High Court has been brought on record. In the course of hearing, the



question arose with regard to putting an end to the controversy relating to grant of compensation.

Having heard learned counsel for the parties, we think it would be in the interest of justice if the respondents are paid Rs.12,00,000/- each within a period of eight weeks, so that they can be compensated for fighting the litigation for long and being remained out of services.

Needless to say, the present order is passed in the peculiar facts and circumstances of the case. When we say peculiar facts and circumstances of the case, we have not expressed any opinion on the merits of the case.

With the aforesaid direction, the judgment of the High Court is set aside and the appeals stand disposed of”.

22. Even though this court suggested arriving of a compromise between the parties and the counsel for workmen circulated a calculation memo which was obviously not accepted by the bank management and the various orders produced before this court quantifying the compensation amount to be paid ranging from Rs.50,000/- to Rs.12 lakhs, this court is not inclined to adopt the course of action by granting a quantified compensation in lieu of reinstatement. The amount of Rs.12 lakhs fixed by the Supreme Court was in exercise of its power under Article 142 of the Constitution and such a power is not available for this court.

23. Having regard to the issues raised by the bank management and such objections have been squarely rejected by the Supreme Court regarding improper employment and application of Uma Devi's case, this court do not find any irregularity or illegality in the impugned award passed by the CGIT. The CGIT had kept itself off from relying upon the provisions of Permanent Status Act



(T.N.Act 46/81) and went solely by the provisions of the I.D.Act, more particularly the mandatory condition precedents laid under Section 25-F of the I.D.Act. The argument that there was no evidence for the service rendered by the workmen is also not acceptable. All the workmen have given evidence before the CGIT and the management witnesses could not assail those statements.

24. The Petitioner Bank was instrumental in getting the first case of temporary workmen whose services were terminated without complying with Section 25-F of the I.D.Act. An order passed by this court was taken up to Supreme Court. Justice V.R.Krishna Iyer, speaking for the bench admonished the bank with his inimitable style vide his landmark judgment in **State Bank Of India vs Shri N. Sundara Money** reported in **1976 (1) SCC 822** in the following words:-

“Had the State Bank known the law and acted on it, half-a-month's pay would have concluded the story. But that did not happen. And now, some years have passed and the Bank has to pay, for no service rendered. Even so, hard cases cannot make bad law. Re-instatement is the necessary relief that follows.”

Even after five decades, the Petitioner bank is fighting similar cases all over India.

25. Under the said circumstances, the impugned Common Award made in I.D.Nos. 22 to 25 of 2007 dt. 27.7.2010 passed by the First Respondent CGIT does



not call for any interference. Accordingly, all the four writ petitions stand dismissed with a cost of Rs.5,000/- to be paid to each of the workman since they have been fighting this case for more than three decades. The Petitioner Bank Management is directed to implement the impugned Common Award within four weeks from the date of receipt of this order. Consequently, connected miscellaneous petitions are also closed.

07.11.2024

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Index : Yes /No

Speaking Order : Yes/No

To:

The Central Government Industrial
Tribunal-cum-Labour Court,
1st Floor, B-Wing,
26, Haddows Road,
Shastri Bhavan,
Chennai – 600006.



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DR.A.D.MARIA CLETE, J.

dpq

Pre-delivery order in
W.P.Nos.785 to 788 of 2011

07.11.2024