



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.525/2011

PETITIONER : Shri Gajanan s/o Sakharam Kale
aged about 47 years, r/o Zilla Parishad
Prathamik Marathi Shala, at Khadki Bz.,
Post – Gandhinagar, Tq-Dist-Akola.

...VERSUS...

RESPONDENTS : 1. The Asstt. General Manager,
State Bank of India, Regional Office,
New Mondha, PB No.5, Nanded,
Dist-Nanded (MS)

2. The Branch Manager,
State Bank of India, ADB Dongarkada,
Tq-Kalamnuri, Dist- Hingoli.

3. The Regional Manager,
State Bank of India, Region-IV,
Zonal Office, Kingsway, Nagpur.

4. The Branch Manager,
State Bank of India,
Main Branch Balapur, Dist – Akola.

5. Shri Sunil s/o Bhagwan Anpat,
aged about 43 years, Occn-Service (Messenger)
State Bank of India, Main Branch,
Tower Chowk, Akola.

6. The Presiding Officer,
CGIT No.2, Shriram Prakash Bhavan,
2nd Floor, Shiv Srusthi Road,
Opp. Priyadarshini Office Eastern Express
Highway, Sion, Mumbai – 400 022.

Mr. D.M. Surjuse, Advocate for petitioner

Mr. S.N. Kumar, Advocate with Mr. Yash Kullarwar, Advocate for respondents

CORAM : ROHIT W. JOSHI, J.

DATE : 25/09/2025

ORAL JUDGMENT :

1. The petitioner – employee is aggrieved by the judgment and award dated 30/04/20210 passed by the learned Presiding Officer, Central Government Industrial Tribunal [CGIT], Mumbai in Reference No.2/15/2007. The reference under Section 10 of the Industrial Disputes Act, 1947 (for short hereinafter referred to as “ID Act”) was made vide order dated 02/03/2007 passed by the Government of India Ministry of Labour as per Section 10 (2-A) of the ID Act.

2. The reference was in relation to retrenchment of services of the petitioner w.e.f. 31/01/2005. The case of the petitioner is that he was appointed on the post of Messenger with the respondent – Bank on 09/01/1988 and has continuously worked on the said post till 09/03/1997 when services were terminated orally. The said termination was challenged by the petitioner by initiating industrial dispute, which came to be registered as Reference No.CGIT-1/18 of 1998. The said reference was decided by the judgment and award dated 20/05/2003. The learned Presiding Officer has set aside the termination of services of the petitioner and directed the respondent – Bank to reinstate the petitioner in service with 50% back wages. The petitioner has raised the claim for regularization of services in the said matter, however, the same

was not entertained on the ground that claim for regularization was not subject matter of the reference. After the judgment and award dated 20/05/2003 was passed, the respondent – Bank issued appointment order dated 02/01/2004 in favour of the petitioner. The petitioner made fresh application in order to enforce his claim for regularization, pursuant to which Reference No.CGIT-2/15 of 2007 came to be registered. The reference came to be rejected vide judgment and award dated 30/04/2020. The case of the petitioner is that his claim for regularization is covered by settlement dated 17/11/1987 entered into between respondent – State Bank of India and All India State Bank of India Staff Federation.

3. The learned Advocate for the petitioner states that the petitioner is entitled for regularization of his services in view of Clause Nos.2, 3 and 4 of the said settlement read with subsequent settlement dated 16/07/1988. The learned Advocate for the petitioner draws attention to the waiting list of temporary employees prepared in the year 1992. The name of the petitioner appears at Serial No.1 in the said list. Perusal of the list demonstrates that the petitioner had obtained 93 marks in the interviews conducted for the purpose of granting benefit of the judgment and has also rendered services for a period of 358 days in the relevant calendar year. The learned Advocate for the petitioner states that despite this services of the petitioner were

not regularized for granting benefit of the settlement, although the said benefit was granted to candidates at serial Nos.10 and 18. Learned Advocate therefore prays that the petition deserves to be allowed by setting aside the order impugned and granting the benefit of regularization as per the settlement in the petition. Learned Advocate for the petitioner has also drawn attention to his statement of claim where a specific statement is made that after termination of his services by way of retrenchment on 31/01/2005 he was not gainfully employed elsewhere as also stated in the present petition to the same effect. He, therefore, prays that the petitioner is entitled to 100% back wages.

4. Per contra, learned Advocate for the respondents – Bank strenuously argued that the petitioner had raised very claim in the first reference made by him i.e. Reference No.CGIT-18/1998 in which his claim for regularization was dismissed and therefore, second reference for the same relief was not maintainable. Apart from this, learned Advocate states that after the first reference was decided, a fresh appointment order dated 02/01/2004 was issued in favour of the petitioner appointing him on the post of Messenger purely on temporary basis. Learned Advocate draws attention to Clause-3 (d) of the appointment order dated 02/01/2004 to contend that the respondent-Bank has reserved right to terminate services of the petitioner by retrenchment in case his services were not required. Learned Advocate

states that a settlement dated 17/11/1987 (as modified supplementary settlement dated 16/07/1988) stood superseded so far as the petitioner is concerned in view of the appointment order dated 02/01/2004.

5. The settlement between the Bank and the Federation is not in dispute. It is also not in dispute that the petitioner was initially appointed in service on 09/01/1988. The case of the petitioner is therefore covered by the settlement dated 17/11/1987 as amended by settlement dated 16/07/1988. In view of the said settlements, all employees who were appointed on temporary basis between 01/07/1975 to 31/12/1987 which was later extended to 31/07/1988, are entitled for regularization. The case of the petitioner is therefore covered by the aforesaid settlement. It is also not in dispute that in the waiting list of eligible employees prepared in the year 1992, the name of petitioner appeared at serial No.1. It is undisputed that although the petitioner was not granted benefit of regularization, same benefit was granted to the candidates at serial Nos.10 and 18. The petitioner and the aforesaid candidates at serial Nos.10 and 18 are belonging to general category. Thus, a clear case of breach of settlement and victimization is made out. The petitioner is entitled to receive the benefit of aforesaid industrial settlements.

6. The learned CGIT has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of *Secretary, State of*

Karnataka and others Vs. Umadevi and others, reported in (2006) 4 SCC 1. However, as is subsequently clarified in the case of *Maharashtra State Road Transport Corporation and another Vs. Casteribe Rajya Parivahan Karmachari Sanghatana*, reported in (2009) 8 SCC 556, the judgment in the case of *Umadevi* (supra) will not be applicable when workers agitate their rights under the Industrial and Labour Laws and that the power to accord permanency to the employees affected by unfair labour practices is not taken away in view of the Hon'ble Supreme Court in the case of *Umadevi* (supra).

7. It will be pertinent to mention that the petitioner-employee has stated in the reference proceeding and has also made a statement in the present petition that ever since the date of termination he was not gainfully employed elsewhere. He has thus discharged initial burden to claim back wages. This statement is not controverted by the respondent-Bank. No evidence to the contrary is brought on record. The petitioner is, therefore, entitled to receive back wages. It would be just and fair to award 75% back wages to the petitioner.

8. In view of above, the impugned judgment and award dated 30/04/2010 passed by the learned Presiding Officer, Central Government Industrial Tribunal No.2, Mumbai in Reference No.CGIT-2/15/2007 is quashed and set aside and the said reference is allowed by

holding that the petitioner is entitled for regularization of services in terms of the aforesaid settlements dated 17/11/1987 and 16/07/1988.

9. The order of retrenchment, dated 31/01/2005 is quashed and set aside and the respondent – Bank is directed to grant benefit of reinstatement in service with 75% back wages. It is clarified that since the petitioner has attained the age of superannuation on 05/01/2023, the question of reinstatement in service does not arise, however, consequential benefits will be granted to the petitioner in terms of the aforesaid settlements and the present judgment.

10. Rule is made absolute in the aforesaid terms. No order as to costs.

(ROHIT W. JOSHI, J.)