



2025:DHC:5058-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 26.03.2025

Pronounced on: 01.07.2025

+ LPA 438/2018 & CM APPL. 32069/2018

STATE BANK OF INDIAAppellant
Through: Mr. Rajiv Kapur, SC with Mr.
Akshit Kapur & Ms. Priya
Sood, Advs.
versus

RAM CHET AND ORS.Respondents
Through: Mr. Piyush Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

NAVIN CHAWLA, J.

1. This Letters Patent Appeal has been filed by the appellant-Bank against the common Judgment dated 10.04.2018 passed by the learned Single Judge in W.P.(C) 7237-7247 of 2007, titled **SBI vs. Ram Chet and Ors.**, whereby the learned Single Judge directed the appellant-Bank to reconsider the absorption of the respondents as and when vacancies arise, and to complete this process within 12 weeks or so from the passing of the Impugned Judgement. The Impugned Judgement has also directed that the petitioners in W.P.(C) 8739/2009, titled **Ram Chet and Ors. vs. State Bank of India**, which is not under challenge in the present appeal, be considered for the grant of



backwages and continuity of service in the event of them being absorbed as employees by the appellant-Bank.

FACTS OF THE CASE

2. As a brief background of facts on which the present appeal arises, on 20.01.1985, the appellant-Bank issued Circular No. PER.IR:CIR:226 concerning temporary appointments in subordinate cadres, advising that such appointments should not be made at administrative offices or large branches. It further stated that the Branch Managers could make temporary appointments only if it was absolutely essential and only with the prior approval from the Controlling Authority.

3. It is the case of the appellant-Bank that despite the above, the respondents, sometime prior to 1987, were engaged as casual labourers at different branches of the appellant-Bank for varying periods ranging from 34 days to 85 days.

4. The All India SBI Staff Federation ('Federation') on 17.11.1987, raised the issue of temporary employees who had completed less than 240 days of service and requested the appellant-Bank to provide them an opportunity for absorption.

5. A settlement was arrived at between the Federation and the appellant-Bank under Section 2(p) and Section 18(1) of the Industrial Disputes Act, 1947 ('ID Act'), wherein it was agreed that the temporary employees who had worked for 240 days or more in 12 months or less during the period 01.07.1975 to 31.12.1987- (Category 'A'); those who had completed 270 days aggregate temporary service



in any continuous block of 36 calendar months between 01.07.1975 to 31.12.1987 (Category 'B'); and those who had completed a minimum of 30 days of service in any calendar year between 01.07.1975 till 31.12.1987 or 70 days in a continuous lock of 36 calendar months between 01.07.1975 to 31.12.1987 (Category 'C'), would be given a chance for permanent absorption in the appellant-Bank. Clause 7 of the Settlement provided that interviews would be conducted to determine the suitability/unsuitability of temporary employees, and panels of selected candidates would be valid up to December 1991 for permanent employment against vacancies likely to arise between 1987 and 1991.

6. Subsequently, the Second Settlement dated 16.07.1988 extended the qualifying service period till 31.07.1988.

7. The Third Bipartite Settlement dated 27.10.1988, further extended the consideration for permanent appointment against vacancies likely to arise from 1988 to 1992.

8. The Fourth Settlement dated 09.01.1991, led to the extension of the validity of panel up to 31.12.1994, with a specific stipulation highlighting that the *'remaining candidates will have no claim whatsoever for being considered for permanent appointment in the bank'*.

9. In 1991, the appellant-Bank also issued guidelines for implementing the third and fourth Settlements, wherein it was stated that a Selection Committee would interview eligible candidates and determine their suitability for permanent appointment purely on merit.



10. Accordingly, on 06.04.1991, the appellant-Bank issued Circular No. PER:IR:11:91 to all its branches and offices in the Delhi Circle, directing them to initiate the absorption process in terms of the Settlements.

11. In furtherance of the Settlements, a notice was also displayed on the branch notice board of the appellant-Bank and an advertisement was also published by the appellant-Bank in newspapers, inviting eligible temporary employees who had completed the stipulated service between 01.07.1975 and 31.07.1988 to apply for permanent positions such as Messengers, Farashes, Cash Coolies, Sweepers, and Bank Guards. It was stated that eligible candidates would be interviewed and suitable candidates would be waitlisted for vacancies likely to arise in 1995 and 1996.

12. On 11.06.1992, the appellant-Bank conducted interviews of the respondents herein at the Delhi Zone Office. The Selection Committee, however, did not find them suitable and rejected them.

13. Since around 25% of the candidates were rejected, the appellant-Bank decided, on 03.12.1993, to review the rejections.

14. Upon review, on 19.01.1994, 34 out of 74 previously rejected candidates were selected, but the respondents were again found unsuitable for absorption.

15. Following conciliation proceedings before the Regional Labour Commissioner, Hyderabad, a Fifth Settlement dated 30.07.1996 between the Federation and the appellant-Bank was arrived at, which extended the validity of the panels up to 31.03.1997.



16. The appellant-Bank filled all identified vacancies up to 31.12.1994 as per the Settlements, and thereafter the panel lapsed. It was then that the respondents raised individual disputes regarding their non-absorption.

17. After the conciliation proceedings failed, the Central Government issued separate references of all respondents to the Presiding Officer of the learned Industrial Tribunal-cum-Labour Court (hereinafter referred to as the 'Tribunal'). The learned Tribunal by its Award dated 18.04.2007, held that there was a violation of the Settlements in preparing the panel of candidates and in the selection process adopted, and highlighted infirmities in the same, owing to which, it directed the appellant-Bank to absorb the respondents within three months from the date of publication of the Award.

18. Aggrieved by this Award, the appellant-Bank filed W.P.(C) 7237-7247 of 2007, which have been disposed of by the learned Single Judge *vide* the Impugned Judgement, directing the appellant-Bank to reconsider the absorption of the respondents as and when vacancies occur, in terms of the Settlements, and to do so within 12 weeks or so. Further, W.P.(C) 8739/2009 filed by some of the respondents, was allowed by the learned Single Judge to the extent that the appellant-Bank was directed to consider the said respondents for the grant of backwages and continuity of service in the event of them being absorbed as employees pursuant to the directions in W.P.(C) 7237-7247 of 2007.

19. Being aggrieved of the Judgement in W.P.(C) 7237-7247 of 2007, the appellant-Bank has now filed the present appeal.



SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT

20. The learned counsel for the appellant-Bank, placing reliance on ***Shankarsan Dash vs. Union of India***, (1991) 3 SCC 47, and ***State of UP & Ors. vs. Rajkumar Sharma & Ors.***, (2006) 3 SCC 330, submits that the respondents have no right to claim regularisation; their only right was to be considered for the same, which has been done in the present case. However, the respondents were not found fit for regularisation, and, therefore, the learned Single Judge has erred in again directing their reconsideration afresh.

21. Placing reliance on ***Secretary, State of Karnataka & Ors. vs. Umadevi & Ors.***, (2006) 4 SCC 1, he submits that the respondent, not having been appointed through a regular selection process, cannot claim regularisation and therefore, a direction to consider their regularisation could not have been passed.

22. He submits that there was also a delay in the reference of the dispute before the learned Tribunal, as the interviews in question were conducted in 1992 and the result of the review was declared in 1994. The reference was made more than 5 years later, that is, in 1999. He submits that a panel of the successful and unsuccessful candidates was duly displayed on the notice board. Placing reliance on the Judgement of the Supreme Court in ***Reserve Bank of India vs. Gopinath Sharma and Anr.***, (2006) 6 SCC 221, he submits that the reference was therefore not maintainable on this ground as well.

23. He submits that additionally, the espousal of the dispute by Mr.J.N. Kapoor was also invalid as he, in his evidence, had admitted



that he had retired and is no longer a Member of the Union. He highlights that Mr. J.N. Kapoor had retired on 31.05.1994, while had made the espousal of the cause of the respondents in the year 1998.

24. He submits that the Award was also not maintainable on the ground that it was passed without impleading the affected parties, namely the 34 contractual appointees who were regularized on review. To this effect reliance is placed on the Judgement of the Supreme Court in ***State of Punjab vs. Chaman Lal Goyal***, (1995) 2 SCC 570.

25. He further avers that the respondents having worked for somewhere between 34 to 85 days in the year 1994 as subordinate staff, cannot be directed to be absorbed in service by an Award passed in 2007, that is, after a lapse of 13 years.

26. He submits that temporary employees have no inherent right to permanent absorption and that the learned Single Judge failed to appreciate that a mere opportunity for consideration for permanent absorption was to be given to them in terms of the Settlements. He submits that in lieu of the same, temporary workmen, including the respondents herein, were interviewed by the Selection Committee and suitable candidates were selected for permanent absorption. Reliance in support is placed on the Judgement of the Supreme Court in ***Mahendra L. Jain and Ors. vs. Indore Development Authority and Ors.***, (2005) 1 SCC 639.

27. He submits that owing to a high rejection rate of about 25%, a review of all 74 unsuccessful candidates was also carried out, resulting in the selection of further 34 out of 74 rejected candidates. He submits that therefore, the respondents were given, not one, but two chances to



be considered for permanent absorption, subject to fulfilling the eligibility criteria, and that the selections made pursuant to the same could not be interfered with by the Court. He clarifies that the Selection Committee only reviewed the results of the unsuccessful candidates.

28. Placing reliance on the Judgment of the Supreme Court ***P.U. Joshi & Ors. vs. Accountant General, Ahmadabad & Ors.***, (2003) 2 SCC 632, he submits that creation of post is an administrative matter of policy and the Court cannot direct the same.

29. He submits that barring making bald averments, no material in support of the plea of *mala fide* of the Interview Committee was placed by the respondent and, therefore, they were not entitled to any relief. He submits that the Selection Committee was the best judge of the comparative merit of the candidates and their decision cannot be challenged in this manner. He avers that the learned Single Judge failed to appreciate that unsuccessful candidates, having participated in the selection process without any demur or protest, could not later question the process of selection. In support, he places reliance on the Judgement of the Supreme Court in ***Om Prakash Shukla vs. Akhilesh Kumar Shukla and Ors.***, 1986 SCC OnLine SC 379.

30. He submits that given the fact that the appellant-Bank stated that it is no longer conducting recruitment for subordinate cadre and cannot create fresh vacancies, passing the direction to reconsider absorption within 12 weeks was ill-suited. He further contends that it is entirely impractical and legally untenable to direct reconsideration for absorption after a period of 24 years, as the respondents are likely



to be gainfully employed elsewhere by now, and that Clause 11(iv) of the First Settlement itself specifically bars candidates, who are already employed elsewhere, from consideration.

31. He submits that an empanelled candidate does not acquire an indefeasible right to be appointed. The panel having expired on 01.04.1997, in any case, no relief could have been granted to the respondents. He submits that the respondents having participated in the selection process cannot be allowed to challenge the same on being not found fit for regularization. In support, he places reliance on ***Madan Lal & Ors vs. State of Jammu & Kashmir & Ors.***, (1995) 3 SCC 486.

32. He submits that in the present case, none of the respondents appeared before the learned Tribunal or gave their evidence. He submits that an Industrial Dispute raised by individuals and not by a Union, cannot be termed as an Industrial Dispute. He submits that the Bipartite Settlement Agreements having been executed between the Federation and the appellant-Bank, it was only the Federation who could challenge the breach of the same.

33. He submits that during the pendency of the proceedings before the learned Tribunal, the learned Single Judge, and this Court, not only were the respondents gainfully employed, but they had also crossed the age of superannuation. Compensation in form of back wages and continuity of service, therefore, could not have been granted to them. He submits that, in fact, as per the affidavit dated 10.11.2023, filed by the respondents in this appeal, three of the respondents, namely, respondent no.1, respondent no.2 and respondent



no.5, have unfortunately passed away and, therefore, relief in their favour has been rendered incapable of being granted.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

34. On the other hand, the learned counsel for the respondents submits that as far as the espousal of the cause is concerned, Section 2(k) of the ID Act is wide enough to enable the individual respondents to raise an industrial dispute as the subject matter relates to employment and non-employment. He submits that the Supreme Court in *Workmen of M/s. Dharam Pal Prem Chand (Saugandhi) vs. M/s. Dharam Pal Prem Chand (Saugandhi)*, 1965 SCC OnLine SC 128, has declared that a dispute between a single employee and his employer can be brought within the scope of Section 2(k) of the ID Act.

35. He submits that the respondents cannot be ousted on the ground of delay of reference, since no formal declaration of result was made by the appellant-Bank upon review. To this effect he places reliance on the cross-examination of Shri B.M. Sharma, the Chief Manager (HR) at the Delhi Zonal Office-I, who stated that there was no requirement to display the result or intimate the candidates who were successful or unsuccessful.

36. The learned counsel for the respondents submits that all the respondents had fulfilled the required qualifications for regularization as per the Bank's Circular No. PER:IR:11:91 dated 06.04.1991 and the Settlement Agreements dated 27.10.1988 and 09.01.1991, which



categorized daily wage workers into three categories based on their service duration between 01.07.1975 and 31.07.1988. The respondents eligibility has been confirmed through affidavits provided by J.N. Kapur and B.M. Sharma, all respondents have completed the necessary length of service and there were no complaints regarding the respondents' work and conduct during their service with the Bank.

37. With regard to the review process itself, he submits that the Selection Committee was neither constituted by the Circle Management Committee, nor was any time limit framed by it. He states that the appellant-Bank failed to produce any notification regarding the appointment of the Selection Committee before the learned Tribunal, or the learned Single Judge, despite repeated requests. He also highlights that it has been clearly held that the power to review is not an inherent power and such power must be conferred by laws either specifically or by necessary implication. In the present case, there was no provision in the Settlement Agreements to carry out a review process of the unsuccessful candidates. In support, he places reliance on the judgment in ***Patel Narshi Thakershi vs. Pradyumansinghji & Arjunsinghji***, (1971) 3 SCC 844.

38. The learned counsel contends that the committee, lacking proper constitution by competent authority, operated in contravention of the principles of natural justice. Furthermore, the arbitrary review of failed candidates conducted 18 months after the initial interviews, without providing any rationale for converting previously deemed 'dull and inactive' candidates into 'suitable' ones, vitiated the entire absorption process, resulting in discrimination that justified the



learned Tribunal's direction to the appellant-Bank to absorb the respondents. He submits that this was a clear case of using unfair means on part of the candidates selected on review in connivance with the authorities of the appellant-Bank.

39. He submits that as per the Office Note of 03.12.1993, another Committee was to review the result of the candidates, but the same Selection Committee has reviewed the result, which reveals that *mala fide* practice was followed by the Selection Board.

40. He places reliance on ***Hari Nandan Prasad and Another vs. Employer I/R to Management of Food Corporation of India and Anr.***, (2014) 7 SCC 190, to submit that where it is found that similarly situated workmen are regularized by employer, and the workmen in question, who have approached the Court are at par with them, then direction for regularization of such case is justified, otherwise, non-regularization of left-over workmen would amount to invidious discrimination.

ANALYSIS AND FINDINGS:

41. We have considered the submissions made by the learned counsels for the parties.

42. From the above narration of facts, it would be apparent that in terms of the Settlement Agreements, the appellant had undertaken to consider all the temporary employees in the following categories, for regularization:

“CATEGORY “A”

Guidelines for implementation have been given for permanent appointment to those in category “A” who have performed 240 days in



12 calendar months or less during the period 01.07.1975 to 31.07.1988 as category "A".

CATEGORY "B"

In category "B" the candidates who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months during the period 01.07.1975 to 31.07.1988.

CATEGORY "C"

In category "C" those candidates who have completed minimum 30 days in aggregate temporary service in any calendar year after 01.07.1975 or a minimum 70 days aggregate temporary service in any continuous block of 36 calendar months during the period 01.07.1975 to 31.07.1988."

43. These workmen were to be regularized against vacancies arising between 1988 to 31.12.1994. The validity of the panel of selected workmen was extended till 31.03.1997.

44. It is also an admitted position that in the initial interviews in June 1992, out of 398 candidates, 375 appeared, out of which 301 were selected. The case of remaining 74 candidates was reviewed in January 1994, out of which 34 were selected for regularization. The respondents, however, were not selected for regularization.

45. In the Award, the learned Tribunal on assessing the evidence before it, including the record of the interviews, found glaring inconsistencies casting a doubt on the *bona fide* of the entire proceedings. It found that certain workmen, who in the initial interview had been rejected, finding them to be unsuitable on the ground of lack of awareness or being unable to respond, in the review process, without any reason and with a re-interview, were selected and declared suitable for regularization. The learned Tribunal further



found that for certain workmen who had worked for more than two years, in the interview process, were declared unsuitable for regularization giving them zero marks, this itself showed that the selection process was not *bona fide*.

46. The finding of the learned Tribunal, as far as the discrepancies in the result of the interview highlighted by the learned Tribunal are concerned, has not been disputed before us by the appellant.

47. While it is true that a candidate having participated in a selection process, later cannot challenge the same, however, at the same time, if the selection process is found to be lacking *bona fide* or as being arbitrary, the Courts would be justified in interfering with the result thereof. Present is one such case.

48. On the submission of the respondents approaching the learned Tribunal with delay, we again do not find any merit. The witness of the appellant had admitted that the respondents were not informed of the results of the interview process. The panel of selected candidates remained valid till 31.12.1997. The respondents, thereafter, almost immediately raised the Industrial Dispute.

49. The Industrial Dispute can also not be said to be not maintainable as it fell within the ambit and scope of Section 2(k) of the ID Act, as explained by the Supreme Court in *M/s Dharam Pal Prem Chand* (supra). Nonetheless, as far as the espousal of the cause of the respondents by J.N. Kapoor is concerned, this specific ground not having been raised before the learned Tribunal, cannot be raised at this stage.



50. While it is also true that an employee cannot claim an indefeasible right to regularization, in the present case, the said prohibition would not be applicable. Admittedly, in terms of the Settlement Agreements, the respondents had a right for a fair consideration for regularization. It is this right that they seek to enforce by way of the Industrial Dispute and which has been granted by the learned Single Judge in the Impugned Judgement.

51. Furthermore, as the 34 selected candidates have not been non-suited by either the Award or the Impugned Judgement, their impleadment was not necessary.

52. Keeping in view the above, we find no merit in the challenge of the appellant to the Impugned Judgment. The appeal, along with the pending application, is accordingly dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J.

RENU BHATNAGAR, J.

JULY 01, 2025/rv/ik