
(2007) 05 DEL CK 0177

In the Delhi High Court

Case No : Cont. Case (C) 1092 of 2006

Amar Singh Sewara

APPELLANT

Vs

Deepa Shrivastava

RESPONDENT

Date of Decision : 21-05-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B

Citation : (2007) 05 DEL CK 0177

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Party-in-Person, for the Appellant; R.N. Trivedi Sr. Advocate, H.S. Parihar and Kuldeep S. Parihar, for the Respondent

Final Decision : Dismissed

Judgement

S. Muralidhar, J.—This contempt petition complains of non compliance by the Reserve Bank of India ("RBI") with the directions contained

in the Order dated 22.8.2005 passed by a Division Bench of this Court in LPA No. 847 of 2004.

2. The petitioner was employed with the RBI as Clerk grade II. After serving for about 40 days, he informed the RBI by a letter dated 19.6.1978

that he had fallen sick and was not in a position to join his duties. Since he had remained absent without any supporting medical certificate, letters

were issued on 5.7.1978 and 17.7.1978 asking him to report for duty. The two letters were returned undelivered with postal remarks that the

petitioner was not available and has left without any forwarding address. When there was no response to the subsequent memorandum issued, an

order was passed on 26.9.1978 treating the petitioner as having voluntarily vacated his appointment.

3. About 19 years later in June 1997, the petitioner submitted an application to the RBI stating that he was medically fit and should be allowed to

continue his duty. When the RBI declined this request, the petitioner raised an industrial dispute which was referred to the Industrial Tribunal. An

Award dated 30.7.2002 passed by the Industrial Tribunal setting aside the Order dated 26.9.1978 issued by the RBI. It was directed that the

period of absence of the petitioner from 19.6.1978 to 7.7.1997 would be converted into extraordinary leave but on reinstatement the petitioner

would be entitled to pay/salary only from 8.7.1997. It was directed that the petitioner would not be entitled to any past benefits such as

increments, promotions, gratuity etc.

4. Aggrieved by the Award, the RBI filed W.P.(C) No. 8124 of 2002 in this Court. By an Order dated 16.8.2004 a learned Single judge allowed

the writ petition and set aside the Award. The learned Single Judge found that the absence of the petitioner for a period of nearly 19 years without

due intimation to the RBI would clearly amount to voluntary abandonment of the service. However, in the concluding portion of the judgment, the

learned Single Judge issued directions u/s 17-B of the Industrial Dispute Act, 1947 ("ID Act") as under:

The Petitioner (RBI) will determine the minimum wages due to the Respondent/workman for the post of Coin Note Examiner on the date of the

award until today and to pay the same to him within a period of four weeks from today. I expect the Petitioner to act fairly and consistently with

the legal position as enunciated by this Court from time to time. This order is being passed u/s 17-B of the Act.

5. According to the RBI, it complied with the above directions and paid the petitioner a sum of Rs. 98,814/- for the period of 24 months and 18

days at a rate of minimum wages of Rs. 4,020/- per month which was applicable to the post of Coin Note Examiner on the date of the award.

6. The petitioner filed a Contempt Petition No. 106 of 2005 during the pendency of which a further cheque of Rs. 71,373.85 towards allowances

for the period 30.7.2002 to 16.8.2004 was also paid to the petitioner. Thereafter, the contempt petition came to be dismissed on 8.12.2005. This

Court observed that minimum wages for the post of Coin Note Examiner on the date of award had in fact been paid to the petitioner and that the

petitioner was unable to show how the payment made to him did not constitute the minimum wages in respect of that post.

7. The appeal filed by the petitioner against the Order of the learned Single Judge was registered as LPA No. 8471 of 2004. By the judgment

dated 22.8.2005 a Division Bench of this Court held that there was no reason to interfere with the findings recorded in the judgment of the learned

Single Judge. The Division Bench, on the aspect of Order u/s 17-B of the ID Act, held that the appellant ""is entitled to Rs. 6635.45 per month as

minimum wages for the period 30.7.2002 to 16.8.2004"" It directed that the balance payment due to the petitioner should be made within a period

of three months from the date of the Order failing which the RBI would be liable to pay the interest at a rate of 12 % p.a. on the balance amount till

the date of payment.

8. According to the RBI, in terms of the Order of the Division Bench, it was liable to pay only a sum of Rs. 1,63,232.10 at the rate of Rs.

6,635.45 per month for the period 30.7.2002 to 16.8.2004. However it had actually paid to the petitioner the following amounts:

(i) During the proceedings in

CW No. 8124 of 2002 : Rs. 15,555.40

(ii) Paid on 10.9.2004 in terms

of the Order dated 16.08.2004 : Rs. 83,258.75

(iii) Paid during the hearing of the

proceedings on 12.08.2005 in

Contempt Case No. 106 of 2005 : Rs. 71,373.85

Total Amount paid : Rs. 1,70,188.00

Therefore, according to the RBI, no further amount was payable to the petitioner.

9. This contempt petition was filed by the petitioner on 19.8.2006 stating that the RBI had not complied with the Order dated 28.2.2005 passed

by the Division Bench of this Court. Notice was directed to issue on 18.8.2006. The RBI filed a compliance affidavit on 4.10.2006, in response to

which the petitioner on 9.10.2006 filed an affidavit which was prolix and imprecise. When the matter was listed thereafter on 15.1.2007, the

Court, on finding that the petitioner who appeared in person, was not able to answer some of the questions put to him by the Court, permitted to

him to approach the Delhi High Court Legal Services Committee for availing the services of a lawyer.

10. However it appears that the petitioner did not avail of the services of a lawyer. On 1.5.2007 he filed a further affidavit. He was heard in person on 8.5.2007.

11. The main submission of the petitioner is that he is entitled to the revision of pay scales in terms of the settlement between the All India Reserve

Bank Employees' Association and the Management of the Reserve Bank of India on 5.10.2005 which according to him, was retrospectively

effective from 1.11.2002. By a circuitous calculation of the revision of wages, he claims that he is entitled to Rs. 9865 per month plus the

allowances, which comes to Rs. 13,884/- per month from November 2002 onwards. He then goes on to say that on 30.7.2002 he would have

drawn minimum wages of "24th stage salary which is Rs. 26,263 per month" and he seeks to rely on the pay scale of a workman in the post of

Coin Note Examiner Grade II. After all these calculations, the petitioner states that a sum of Rs. 4,83,584 is due to him.

12. The petitioner appears to miss the basic point that the learned Single Judge as well as the Division Bench have concurrently held that the

Award of the Industrial Tribunal directing his reinstatement was unsustainable in law. The issue had narrowed down to the wages payable u/s 17-

B of the ID Act for the period 30.7.2002 which is the date of the Award till 16.8.2004, the date of the judgment of the learned Single Judge.

Already a contempt petition filed by the petitioner came to be dismissed by this Court on 12.8.2005. A specific observation in that Order was that

the minimum wages would be that payable on the date of the award." In that Order this Court further noted that the petitioner had been unable to

show that he was entitled to any higher wages. The Order of the Division Bench of this Court is also very categorical. All that the appellant was

asked to be paid was Rs. 6635.45 per month for the period 30.7.2002 to 16.8.2004. Nothing more was to be paid to the petitioner.

13. Upon perusing the affidavit filed by the RBI, this Court is satisfied that the directions issued by the Division Bench in its Order dated 22.8.2005

has been fully complied with. No case for contempt is made out. The contempt petition is dismissed. Since the petitioner is appearing in person this

Court refrains from imposing any costs.