

(2008) 02 DEL CK 0099
In the Delhi High Court
Case No : LPA No. 245 of 2007

Canara Bank

APPELLANT

Vs

V.K. Grover

RESPONDENT

Date of Decision : 29-02-2008

Acts Referred:

Citation : (2008) 102 DRJ 197

Hon'ble Judges : Dr. M.K. Sharma, C.J;Reva Khetrapal, J

Bench : Division Bench

Advocate : V.K. Rao, Ayushya Kumar and Saket Sikri, for the Appellant; Inder Jit Singh, for the Respondent

Final Decision : Allowed

Judgement

Mukundakam Sharma, C.J.—The issue that is involved in the present appeal is whether or not the respondent is entitled to stagnation increment as envisaged in the Fifth Bipartite Settlement dated 10th April, 1989.

2. The respondent was appointed in the erstwhile Laxmi Commercial Bank Limited as Clerk on 4th September, 1972. He was promoted as Head Clerk on 11th November, 1980 and then as Special Assistant on 11th November, 1981. Thereafter, the respondent was promoted to the Officer cadre on 7th January, 1983. Subsequent thereto, the erstwhile Laxmi Commercial Bank Limited was merged with the appellant-Canara Bank with effect from 24th August, 1985 in terms of an amalgamation scheme framed by the Central Government in consultation with the Reserve Bank of India. Consequently, effective from 24th August, 1985 the respondent became an officer employee of the appellant-bank. The respondent after the aforesaid amalgamation was transferred to Sikanderabad Branch of the appellant-bank on 10th September, 1986 not only in terms of the transfer policy of the Bank but also in tune with the RBI Guidelines for giving rotation in posting from time to time and also on the ground of administrative exigencies. The respondent however, did not join Sikanderabad Branch and made all efforts to get the transfer order cancelled or modified for

being posted to Delhi. Even after a long lapse of time when he did not join Sikanderabad Branch, some other officer was posted to that Branch. Respondent was thereafter transferred to Vishakhapatnam Branch in 1988 when he again made a representation dated 30th May, 1988 for his retention at Delhi due to his family circumstances. The appellant-bank expressed their inability to accept the aforesaid request under letter dated 14th June, 1988 stating that the respondent has been working in the cadre of employment which extends to all over the country and, Therefore, has all-India transfer liability due to which the appellant-bank was unable to consider his retention at Delhi. Thereafter the respondent made another representation on 30th November, 1988 requesting to revert him back to the workman cadre and for his retention at Delhi due to his family circumstances. The appellant-bank, as per the guidelines formulated and as a matter of policy decision, offered him the terms and conditions on which his request for retention could be considered. Respondent agreed to the aforesaid terms and conditions under letter dated 3rd January, 1989 voluntarily and without raising any protest. The competent authority of the appellant-bank Therefore permitted him to get himself reverted back to the clerical cadre under proceeding dated 3rd February, 1989 and a communication to that effect was issued by the appellant-bank. On 25th November, 1992 the respondent submitted a letter to the appellant-bank praying for release of stagnation increment in terms of the policy decision of the appellant, particularly by making reference to the following conditions:

4.B STAGNATION INCREMENTS:

Both the clerical and subordinate staff shall be eligible for three stagnation increments at the rates and frequencies and subject to the terms and conditions as enumerated below:

The Clerical and the Subordinate staff on reaching the maximum in their respective scales of pay, shall draw stagnation increments at the rate of Rs. 120/- and Rs. 50/- each and at the frequencies of three years and two years respectively from the dates of reaching the maximum of their scales of pay as aforesaid.

Provided however:

- (1) ...
- (2) ...
- (3) ...

NOTE: Stagnation increments would not be given to an employee who at any time after the commencement of the 8th September, 1983 settlement and after being offered or selected for promotion refuses to accept such promotion.

3. In the meantime however by letter issued on 21st January, 1993 the appellant- bank rejected the claim of the respondent stating that since the

respondent on his own will got himself reverted to clerical cadre with effect from 10th February, 1989, as per Head Office guidelines, he would not be eligible to get any stagnation increment.

4. On 19th February, 1994 the respondent made an application u/s 33C(2) of the Industrial Disputes Act, 1947 before the Central Government Labour Court wherein he claimed payment of stagnation increment on the ground that he fulfilled all the prescribed requirements to get such increment from 1st September, 1992 to 31st January, 1994 in terms of the Bipartite Settlement. The matter was contested before the Tribunal. The Tribunal however on going through the record passed an order dated 28th February, 2004 for payment of Rs. 3,737.52 with 6% interest. The bank was directed to pay the aforesaid amount along with up to date interest to the respondent.

5. The appellant bank aggrieved by the aforesaid order passed by the Tribunal, filed a writ petition in this Court which was heard by the learned Single Judge. By order dated 20th February, 2007, the said writ petition was dismissed upon interpretation of Clause 4(B) of the Fifth Bipartite Settlement and the Note appended thereto, which have been extracted hereinbefore.

6. Being aggrieved by the order passed by the learned Single Judge, the present appeal is filed on which we have heard the learned Counsel appearing for the parties and also perused the record.

7. The issue that arises for our consideration is as to whether after reversion to the clerical cadre at his own request, the respondent could be said to be stagnated in the clerical cadre, for which he may be entitled to stagnation increment as contemplated in Clause 4(B) and the Note appended thereto. The learned Single Judge held that the respondent did not fulfill any of the conditions in the aforesaid Note so as to make the said Note applicable to him and, Therefore, he is entitled to stagnation increment. The learned Single Judge however stated that the respondent was offered promotion before 8th September, 1983, which he accepted and, Therefore, the aforesaid Clause 4(B) of the 5th Bipartite Settlement which came into effect from 8th September, 1983 would not be applicable to the case of the respondent as he was not offered/selected for promotion after 8th September, 1983. Having held thus, it was held by the learned Single Judge that the benefit of stagnation increment cannot and should not be denied to the respondent.

8. While issuing notice on this appeal we directed the appellant to deposit an amount of Rs. 3737.52 in this Court which has been deposited along with 6% interest. Counsel appearing for the appellant has fairly submitted that the amount is not very huge and, Therefore, even if the said amount is paid to the respondent the appellant would not have any objection, but the legal issue which has been considered and decided by the learned Single Judge is erroneous and, Therefore, those findings should not be allowed to stand, as it may affect the appellant adversely at a future date.

9. We have gone through the records and examined the aforesaid legal issue which arose for our consideration as to whether or not the respondent is entitled to stagnation increment in terms of Clause 4(B) of the 5th Bipartite Settlement and the Note appended thereto. The very purpose and object of such a beneficial provision is to give benefit to a person who is not given promotion or cannot get promotion to the next cadre and is stagnating in the post for want of due promotion for long time. Eligibility for receiving the stagnation increments at the rates and frequencies and the terms and conditions are enumerated in the said clause. In the note appended thereto it was made clear that stagnation increment would not be given to an employee who at any time after the commencement of the settlement dated 8th September, 1983 and after being offered and/or selected for promotion, refused to accept such promotion. The aforesaid policy admittedly came into effect on 8th September, 1983 when the respondent was working in the officer cadre. He himself has sought his reversion and, Therefore, it was a unilateral action on the part of the respondent asking for his reversion to the clerical cadre. The aforesaid Note, which is appended to Clause 4(B) of the Bipartite Settlement, was applicable immediately on the voluntary action on the part of the respondent as on the date 8th September 1983 he was working on the promoted post and after the commencement of the said Settlement dated 8th September, 1983 he had refused to continue with the promotion and wanted reversion back to the clerical cadre. The appellant did not mind giving the respondent promotion and, Therefore, there was no cause for stagnation due to action on the part of the appellant, but it was the voluntary act of the respondent which caused the said stagnation. A three year period was contemplated for making one entitled to and eligible for stagnation increment and if for any reason a person was not promoted for three years, he could become eligible to claim such benefit. It was a beneficial provision. Here, however, is a case where although the appellant desired that the respondent should serve on the promoted post, but due to his own personal difficulty the respondent refused to continue with the said promotion and wanted reversion back to his old cadre. Therefore, it cannot be said that the aforesaid Clause 4(B) along with the Note appended thereto is not applicable to the case of the respondent. The findings arrived at by the learned Single Judge Therefore appear to be fallacious. We accordingly set aside the same.

10. In view of the above discussion, we allow the appeal. We however make it clear that we have only considered and decided the legal issue which arose for our consideration. But so far as the amount which is deposited in this Court is concerned, it being a very meager amount and as the appellant has no objection if the said amount is paid to the respondent with interest accrued thereon, we direct that the said amount be paid to the respondent along with accrued interest without prejudice to the legal principles as laid down herein. The appeal stands disposed of in terms of the aforesaid order.