
(1995) 11 AHC CK 0055
In the Allahabad High Court
Case No : Writ Petition No. 19929 of 1991

D.B.Sharma and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-11-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1995) 11 AHC CK 0055

Hon'ble Judges : P.K.Mukherjee, J and C.A.Rahim, J

Final Decision : Allowed

Judgement

Paritosh K. Mnkherjee, J.—The present writ petition was moved on behalf of 27 petitioners, inter alia, praying for issuance of writ of mandamus directing the respondents to pay the petitioners salary in the payscale of Rs. 21004000 on the post of Manager; Officer (Junior Management Cadre which is being given to other 195 Regional Rural Banks (hereinafter referred to as the RRBs) Officers and Managers of Nationalised Scheduled Commercial Bank, and, also the arrears of salary which have become due by this time.

2. At the time the writ petition was moved Hon''ble B. M. Lai, J. did not pass any order of stay on July 20,1991, and the writ petition has now come up for final hearing.

3. Sri V. K. Singh, is appearing for the Union of India. No counteraffidavit has been filed, although Hon''ble R. B. Mehrotra, J., on 751992 passed the direction for filing the counteraffidavit.

4. The facts as stated in the instant writ petition are as follows :

The petitioners who are 27 in number were employed in RRBs established under the provisions of Regional Rural Bank Act, 1976 (hereinafter referred to as the Act). The said Bank was established with a view as develop the rural economy by providing funds for the development of agriculture, trade, commerce and Industry and other productive activities in the rural areas. The loans are

disbursed to small and marginal farmers, agricultural labourers, artisans and small entrepreneurs, and, for matters connected therewith, and incidental thereto.

5. Each Rural Bank has been sponsored by some Bank. Subsection (3) of Section 3 of the Act also provided that it shall be the duty of the sponsoring commercial Bank to aid and assist the Regional Banks sponsored by it by subscribing its share capital.

6. Kshetriya Kisan Gramin Bank, Mainpuri. under which present petitioners are working, it also one of the RRB incorporated under Section 3 of the Act, and is sponsored by Uttar Pradesh Cooperative Bank Limited, Lucknow. It is Stated that, in all, 196 RRBs have been incorporated in the country. Out of 196, 165 RRBs have been incorporated by some or the other Nationalised Scheduled Commercial Banks. Kshetriya Kisan Gramin Bank, Mainpuri is the only Bank which is sponsored by the Uttar Pradesh Cooperative Bank Ltd. Lucknow. All other Rural Banks have been sponsored by the nationalised Banks.

7. According to the present petitioners, the. Regional Rural Banks were performing the same duties and functions which were entrusted to the commercial Banks engaged in the rural areas of the country. However, there was great dissimilarity and inequality in the payscales of employees and officers of the RRBs and those of other commercial Banks.

8. Writ petitions were filed in the Hon''ble Supreme Court by employee and Officers of the various RRBs claiming parity with the employees of the nationalised Banks in respect of pay, salary, other allowance as well as other benefits. Writ Petitions No. 714950 of 1982 and 132 of 1984 were filed before Hon''ble Supreme Court, which were contested by the Central Government. However, on 1101987 apex Court passed following orders :

?We are happy to know that the Central Government had agreed to appoint a National Industrial Tribunal to decide the question relating to pay, salary, other allowances and other benefits payable to the employees of the Regional Rural Banks constituted under the Regional Rural Banks Act, 1976. The learned counsel for the petitioners also agreed that a reference may be made to the proposed Tribunal. In view of the above, it is not necessary to pronounce upon the questions of law raised in these writ petitions before us. We leave all the contentions open. I heCentral Government shall refer the dispute to the Tribunal, preferably to a retired Chief Justice of a High Co; it, within four weeks from today. We hope that the Tnbunii will pronounce its award as expeditiously as possible. These writ petitions are disposed of accordingly.?

9 In terms of the aforesaid order of the Hon''ble Supreme Court, Central Government appointed a National Industrial Tribunal, consisting of Mr. Justice S. Obul Reddy, Retired Chief Justice of High Court of Andhra Pradesh as Chairman, for considering all the disputes regarding grant of pay, salary and other allowances and other benefits payable to the employees of the RRBs.

10. The Tribunal adverted to all the questions raised before it and passed an award with the following findings on 30/4/1988.

?While considering the question as to whether RRBs achieved the social objective of developing rural economy and raising rural poor's from above poverty line as envisaged in the preamble of the RRBs Act. The Tribunal recorded a finding in the affirmative^ The Tribunal held the RRBs have given a boost to the economy in the rural areas. It held that RRBs have improved a lot, the economic conditions of the borrowers in the rural sector and more important is of the neglected sectors which has now become bank conscious.?

?With regard to points Nos. 4 and 5 framed by the Tribunal for determination, the findings were recorded in affirmative. The Tribunal held that commercial Banks and RRBs carried on the same and similar banking business and they participate in the development of rural economy as instrumentalities of the State. The Tribunal further held that duties and functions of the officers and other employees of the RRBs are the same as those of the officers and other employees of the rural branches of commercial banks/sponsor banks.?

?The Tribunal held that the only comparable post to which RRBs can be equated are the posts in commercial Banks."

11 In essence, the Tribunal has accepted the claim of the present petitioners and held that they are entitled to the payscales which are given to the employees of the Commercial Banks.

12. A perusal of the award reveals that in paragraph 4.428, the Tribunal held that equation of posts and the consequent fixation of the new scales of pay, allowances and other benefits for officers and other employees of the RRBs, at par with the officers and other employees of comparable level in corresponding posts in sponsor banks and their fitment into the new scales of pay, it is a matter which has to be decided by the Central Government in consultation with such authorities, as it may considered necessary.

13 In view of aforesaid recommendation made in paragraph 4.428, the Central Government referred the matter to the Equation Committee and Equation Committee submitted a report on January 8, 1981. The report of the Equation Committee is Annexure 6 to the writ petition. It has wrongly come to the conclusion that petitioners being Branch Managers are entitled to the payscale of Assistant Manager of Rs. 9102280 on the plea since the Banks, where petitioners were previously employed, been sponsored by Uttar Pradesh Cooperative Bank Limited, Lucknow and not by other nationalised Bank ; since the Kshetriya Kisan Gramin Bank, Mainpuri, is the only Bank, which is sponsored by the Uttar Pradesh Cooperative Bank Limited, Lucknow and all other rural banks have been sponsored by the nationalised Banks.

14. This distinction has not been made by the Equation Committee on the basis of performing equal job which is in gross violation of catena decisions of

Supreme Court, such as, R. Singh v. Union of India, AIR 1982 SC 879 ; Union of India v. P. G. Kashyap, AIR 1986 SC 431 ; Surinder Singh v. Engineer in Chief, CPWD, AIR 1986 SC 584 etc.

15. Sri S. P. Gupta, assisted by Sri Ashok Bhushan, argued the case on behalf of the petitioners. In the forefront, he relied upon a decision rendered by a Bench consisting of Hon''ble K. N. Singh, J., Hon''ble N. D. Ojha, J. (as their Lordships then were) in Grih Kalyan Kendra Workers Union v. Union of India, AIR 1991 SC 1173, wherein the Supreme Court has observed as follows :

?Equal pay for equal work is not expressly declared by the Constitution as a fundamental right but in view of the Directive Principles of State policy as contained in Article 39 (d) of the Constitution ?Equal pay for equal work? has assumed the status of fundamental right in service jurisprudence having regard to the constitutional mandate of equality in Articles 14 and 16 of the Constitution. Equal pay for equal work and providing security for service by regularising casual employment within a reasonable period has been accepted by this Court as a constitutional goal to our socialistic pattern. It has ceased to be a judge made law as it is the part of the constitutional philosophy which ensures a welfare socialistic pattern of a State providing equal opportunity to all and equal pay for equal work for similar placed employees of the State. This Court has zealously enforced the fundamental right of equal pay for equal work in effectuating the constitutional goal of equality and social justice in a number of decisions. See : Randhir Singh v. Union of India ; Daily Rated Casual Labour Employed under P & T Department v. Union of India ; Dharendra Chamoli v. State of U. P. ; Surinder Singh v. Engineer in Chief CPWD ; R. D. Gupta v. Lt. Governor, Delhi Administration; Bhagwan Dass v. State of Haryana; Jaipal v. State of Haryana ; Dharwad District PWD Literate Daily Wage Employees Association v. State of Karnataka. Therefore, the principle of equal pay for equal work even in an establishment which is an instrumentality of a State is applicable to its full vigour.?

16. Mr. S. P. Gupta, learned counsel for the petitioner next contended that the impugned order passed by the Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi, dated February 22, 1991 (Annexure V to the writ petition), the Ministry of Finance informed the Managing Director, Uttar Pradesh Cooperative Bank, Lucknow as well as Chairman, Kshetriya Kisan Gramin Bank, Mainpuri, about implementation of recommendations of National Industrial Tribunal. On the Equation Committee's recommendation, it appears that the Government of India has been pleased to inform that the Award of NIT dated 30/4/1990 and the recommendations of the Equation Committee dated 16/1/1991 have since been accepted. The instructions issued by Government of India are as under:

?Accordingly following instructions are issued, in terms of provision (1) of Section 17 of RRBs Act, 1976 for implementing the NIT Award and the recommendations of the Equation Committee immediately.?

?As regards fitment into new scales of pay as on 191987 the procedure is detailed in the following subparagraph :

The employees of RRB in the workmen cadre as on 191987 in the first instance, are to be fitted into corresponding payscales of equated posts in their sponsored Bank as given in the AnnexureI the payscale, allowances, etc. of workmen staff in sponsored Bank as applicable on 1st September, 1987 are governed by settlement between the Workmen Union in Uttar Pradesh Cooperative Bank Ltd. and Uttar Pradesh Cooperative Bank Limited.

?Similarly, the employees of RRB in officer cadre as on 191987, in the first instance, are to be fitted into the corresponding scales of pay of equated posts in sponsor Bank. The payscales and allowances to officer staff in sponsor bank are governed by the respective staff Rules issued by the sponsored Bank from time to time. An extract of payscales, allowances, etc., obtaining in the sponsor Bank in respect of both as applicable on 191987 may be obtained by the Bank in being separately advised to supply the same to RRB.?

17. By the impugned decision, it appears that summary of recommendations made by the Equation Committee of Regional Rural Bank has been accepted by the impugned decision of the Union of India, Department of Finance, not accepting Section 19 of the said report, whereby Branch Manager, Officers of Kshetriya Kisan Gramin Bank, Assistant Manager of U. P. Cooperative Bank Ltd., Lucknow. Aggrieved by aforesaid action, present writ petition has been moved.

18. It appears, that both the recommendations of the Equation Committee as well as implementation of Section 19 of the said report has been challenged by the instant writ petition on the ground that the employees of the Kshetriya Kisan Gramin Bank, Mainpuri have been discriminated, although they are performing the same job, managerial in nature, which a Branch Managers, sponsored by other nationalised Bank, are performing.

19. Thus the writ petitioners, who are 27 in number have been discriminated in the payment or salary and pay scales as they are otherwise entitled to get the same pay scales of the commercial Bank, as well as nationalised Bank.

20. Sri Gupta, learned counsel for the petitioners however, submitted that out of 196 RRBs in the country, Managers/Officers of 195 are getting the payscale of Branch Manager (Officer Junior Management Scale I) of the commercial nationalised scheduled Bank. i.e. Rs. 21004020, whereas the Branch Managers of the Kshetriya Kisan Gramin Bank, Mainpuri, were directed to be paid (who are the petitioners herein) lesser amount of salary, which is discriminatory and violative of Articles 14 and 16 of the Constitution. Since all Branch Managers and Officers of 196 Regional Rural Banks are performing the same duties and functions they are entitled to the same pay scales as well as benefits. Therefore, the Central Government has clearly erred in law in denying the same pay scales to the present petitioners are being given to other Officers Branch Managers in respect of 195 RRBs in the country, which is clearly violative of Article 14 of the

Constitution.

21. No counteraffidavit has been filed, defending the Government Order, as well as, recommendations of the Equation Committee. In the absence of any counteraffidavit this Court has to arrive at necessary conclusion, as to the validity of the recommendations of the Equation Committee and the impugned order passed by the Central Government, Ministry of Finance, New Delhi, dated 22 February, 1991, by carefully scrutinising each and every document available on record, and considering rival submissions.

22. It appears from the award, which was passed by the National Industrial Tribunal, constituted in terms of the earlier direction passed by Hon"ble Supreme Court in a petition under Article 32 of the Constitution that the Tribunal, framed the following issue : "

?Are the writ petitioners entitled to claim parity in the salary structure with the employee of the Sponsor Banks within the frame work of the 2nd proviso to Section 17 of the Regional Rural Banking Act, 1976.?

23. On the facts and circumstances of the case, the Tribunal arrived at relevant conclusion in clause 4.120, which runs as under :

?The duties and functions of the officers and other employees of the RRBs are similar as those officers and other employees in the comparable posts of rural branches of sponsor Banks. There is not any appreciable differences in the duties and the functions of the employees in the two types of branches in the rural sector. If the RRBs did not involve themselves in all the business transactions referred to in Section 6 of the B. R. Act, it is because of the restrictions imposed by the Central Government NABARD having regard to subsection (2) to Section 18 of the RRB Act.

?This admission that the functions are similar is very significant It is well to remember that out of 196 RRBs, the Chairman of 112 RRBs in their answers to the questionnaire replied that ?the duties and functions of various officers and members of the staff are same and similar as those of the corresponding posts in the nationalised Banks?, 23 Chairmen said ?to some extent? and only 6 Chairmen said ?they are not comparable?.

?The persons competent to judge similarity of functions are the Chairmen of the banks who are no other than the officers of the sponsor Banks, indisputably commercial Banks and RRBs carry on similar banking business and participate in development acting as instrumentalities of the state in accordance with the Directive Principles of the Constitution.?

?There is any amount of justification in the demand of the writ petitioners that they ought to have been equated to comparable posts in commercial Banks and their salary structure should have been so related as to in conformity with the salary structure in the nationalised Banks.

?The rural banking entrusted to the RRBs is a special responsibility and in no way inferior to the duties and functions entrusted to the rural Banks of nationalised Banks.?

?The most relevant factor to be considered while equating posts is the similarity of functions and duties in a comparable department or industry, without regard to the apparent dissimilarities. The Central Government erred in the matter of equation of the posts. The pay structure determined should have nexus or relation to not only the duties of and functions of the officer one holds, but it should also be justly comparable with the posts in cognate undertaking or sister industry, equations are always made with reference to the qualifications, level of the post, nature, function, duties and the position visavis similar posts with which they are equated.?

24. The Tribunal ultimately quoted that the petitioners have genuine grievance and are not being paid equal pay at par with the Commercial Managers, discharging the same duties.

25. Thus, in our view although Tribunal arrived at the necessary conclusion that the petitioners may be paid ?equal pay for equal work? because of similarity in the nature of job performed by them being at par with the Branch Manager of the Commercial Bank, there was no reason for making any discrimination on the part of the Central Government to take the contrary view on the basis of the fact that since the petitioners are attached to Rural Banks, which is sponsored by U. P. Cooperative Bank Ltd. Lucknow, they cannot be treated at par with those sponsored by Commercial or Nationalised Bank.

26. We are of considered view that the moment it is established that the nature of job, being performed by petitioner is not dissimilar to that being performed by those, sponsored by Commercial Nationalised Banks, they cannot be discriminate, in the matter of payscales and other benefits, with their counterparts. Thus, their demand, raised in the present petition, is fully justified.

27. In our view the Central Government, issuing the order, has clearly violated the provisions of equality enshrined under Articles 14 and 16 of the Constitution, which guarantees equality in the matter of appointment and sanction of pay scales. Thus the circular dated 27th February, 1991, is liable to be set aside. In the result the impugned circular dated 27/2/1991 is set aside.

28. Respondents, and each one of them are directed not to be made any discrimination with the petitioners in view of Equation Committees finding and the award passed by National Industrial Tribunal, dated 30th April, 1990 and fix same payscales in respect of all 195 Banks, with effect from 1987. j

29. Respondents are directed to pay the arrears of pay in the revised scale within the period of six months, from the date of production of certified copy of this order, and also give similar payscale to the Assistant Branch Managers, sponsored by the commercial and nationalised Bank, in terms of this judgment.

30: With these observations the writ petition is allowed, with no order as to cost.