

(1996) 01 DEL CK 0078

In the Delhi High Court

Case No : Civil Writ Petition No. 1309 of 1981

J.S. Dalal

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision : 15-01-1996

Acts Referred:

Citation : (1996) 1 AD 603 : (1996) 61 DLT 503

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : B. Mohan, V.P. Singh and K.C. Kalra, for the Appellant;

Judgement

M.K. Sharma, J.

(1) In this writ application, the petitioner has sought for a direction to the respondents for giving him the benefit of past service rendered by him as an Officer Grade "D" in the Bank of India and also for quashing the decision of the respondents reducing the salary of the petitioner and fixing the same at Rs. 1,680.00, and directing the respondents 1,2 and 3 to fix the Basic Pay of the petitioner at Rs. 1,700.00 in the Middle Management Grade, Scale Ii and consequent thereto promotion of the petitioner to the Middle Management Scale, Grade Iii and also the consequential benefits.

(2) The petitioner was initially appointed as an Officer in Grade "D" in the Bank of India (hereinafter referred to as "Bank") with effect from 2.7.1973. The petitioner was drawing a basic scale of Rs. 400.00 - Rs. 1,000.00 at the relevant time in which he was drawing Rs. 580.00 sometime in the year 1978. Near about the same time, the Bank issued an advertisement for filling up certain posts of Industrial Relation Officers for its Personnel Department at various centres in India in terms of which the aforesaid posts were to be filled up through the process of direct recruitment.

(3) Subsequently, however, the Bank issued a Memorandum on 14.7.1978 communicating the decision of the Bank to consider applications of the various

officers of the Bank who fulfill the eligibility norms as laid down in the aforesaid advertisement. In the said Memorandum it was, however, made clear that the Officers of the Bank who seek to apply against the aforesaid posts on their appointment to the said posts would be treated as specialist and would not carry the career opportunities of the Generalists. The aforesaid clarification was issued by the Bank so as to keep the inside candidates at par with the other outside candidates. It was further made clear that upon selection, the officers who were employees of the Bank would have to resign from their services in the Bank and would join as fresh recruits on probation and they would have no lien on their previous service.

(4) In pursuance of the aforesaid advertisement, the petitioner also submitted his application and he was also selected. By a letter dated 20.6.1979, the Bank informed the petitioner that it has been decided by the Bank to offer him a post of Industrial Relations Officer on the specific terms and conditions one of which was that he would have to resign his present service and join as a fresh recruit on probation and that he will have no lien on his previous service. On receipt of the aforesaid letter from the Bank, the petitioner it appears submitted certain representation to the Bank seeking certain changes in the terms and conditions mentioned in the letter of the Bank dated 20.6.1979.

(5) In view of the said representation submitted by the petitioner the Bank considered the request of the petitioner for change in the terms and conditions of his appointment and by a letter dated 8.9.1979, the Bank informed the petitioner that it would not be possible for the Bank to make any changes in their letter of 20.6.1979. It was made clear to the petitioner in the said letter that the petitioner would have to resign his present service and join as a fresh recruit on probation. However, the Bank offered to grant certain concessions which were specifically mentioned therein and requested the petitioner that if he agreed with the aforesaid changes and conditions, he could accept the post of Industrial Relations Officer in the Bank.

(6) The petitioner, it appears, by his letter dated 2.2.1980 addressed to The General Manager, Bank of India, referred to the circular of the Bank dated 14.7.1978 and also the letter of offer dated 20.6.1979 and also the letter dated 8.9.1979 and tendered his resignation from the service of the Bank by the aforesaid letter in accordance with the main condition for appointment as Industrial Relations Officer. It was made clear in the said letter that the resignation would be effective from 1.2.1980 and requested the Bank to issue a fresh appointment letter as Industrial Relations Officer. The petitioner was thus appointed as the Industrial Relations Officer in the respondent-Bank.

(7) Subsequently a new service regulation called "Bank of India Service Regulations, 1979" was brought into force on 30.5.1980 making it enforceable with retrospective effect from 1.7.1979. In terms of the said service regulations, the officers serving in "the Bank were fitted into new Scales of pay. A circular dated 30.5.1980 was issued by the Bank detailing the manner and method to be

followed for the purpose of placement of Officers in the service of the Bank in new Grades/ Scales. Reference may be made to an entry in the said circular appearing at Para 5.2. It is laid down in the said para that, the officers who joined the Bank service on or after 1.7.1979 would be fitted in the Junior Management Grade, Scale I, on stage to stage basis as shown thereafter according to which an officer who was drawing Rs. 1,000.00 was shown to have been fitted into the Grade of Rs. 1,500.00. An officer if at the relevant time would have been drawing Rs. 580.00 his fitment would have been Rs. 900.00. This is relevant because the petitioner at the time of his resignation from the Bank was drawing Rs. 580.00.

(8) The contention of the petitioner who appears in person before me is that the aforesaid fitment is incorrect and in support of his submission he has drawn my attention to Annexure I annexed to the writ petition which is a Chart showing fitment of the petitioner in service as on 30.6.1979 according to which the petitioner should have been fitted at Rs. 1,700.00 instead Rs. 1,500.00. The petitioner further submits before me that he was also entitled to benefit of fitment taking into consideration his appointment at Rs. 1,000.00 and the said benefit has been denied to him. The action of the respondents are illegal and without jurisdiction in denying him both the benefit of his past service in the Bank and also proper fitment.

(9) Mr. V.P. Singh, appearing for the respondent-Bank submits that the petitioner was appointed as a fresh appointee in the post of Industrial Relations Officer on a higher salary after he resigned from his earlier post as an Officer of the Bank. In terms of the specific terms mentioned in the letter of offer dated 20.7.1979, the petitioner was neither entitled to any lien on his earlier post from which he has resigned, nor was he entitled to any continuity of service. As the petitioner was appointed to the post of Industrial Relations Officer on 2.2.1980 after he had resigned from his earlier post, he has to forego his past services in the Bank and his length of service in the Bank would be counted from date of his fresh appointment. His further contention is that it was made clear to the petitioner in the letter dated 20.6.1979 that service condition including emoluments are likely to be revised and undergo changes and that the petitioner would be governed by all such Rules and conditions of service as made applicable to the Officers staff. According to him, the petitioner on 30.6.1979 was drawing a basic pay of Rs. 580.00 per month and in accordance with Para 5.1 of the circular his basic pay would have been Rs. 900.00 per month in the Junior Management Grade, Scale I on implementation of the regulation of the Bank of the year 1979 provided he had not resigned from the Bank service and accepted a fresh appointment. On his fresh appointment to a post carrying basic pay of Rs. 1,000.00 his revised basic pay would be Rs. 1,500.00 in Junior Management Grade, Scale I with effect from 2.2.1980 but as a good gesture on the part of the Bank, the basic pay was revised to Rs. 1,680.00 per month with effect from 2.2.1980 and in fact he was placed three stages higher in the Scale 1.

(10) Having carefully considered the rival submission of the parties and on analysing the records placed before me, I have noticed that the petitioner although was serving in the Bank in a post of Grade "D", he resigned from his post and chose to accept an offer of the Bank to be appointed to the post of Industrial Relations Officer as a fresh recruit foregoing all his past benefits. Therefore, the petitioner is not entitled to claim any benefit for his past services rendered in the Bank as a Grade "D" Officer-of the Bank since the petitioner accepted the post of Industrial Relations Officer as a fresh recruit after resigning his service, such a claim for giving him the benefit of past services as Grade "D" Officer would also be barred by the principles of waiver and acquiescence.

(11) So far the other issue with regard to the fitment in the revised scale is concerned, I may refer to the circular of the Bank which is a part of the record and relied upon by the petitioner as also by the Counsel for the respondent. Para 5.2 of the said circular explicitly shows that an Officer who had joined the Bank service on or after 1.7.1979 and drawing a salary in the existing scale of pay at Rs. 1,000.00 was liable to be fitted into a Grade carrying pay scale of Rs. 1,500.00. The legality and validity of the aforesaid circular is not in challenge in this writ petition. It may also be emphasised that as a good gesture, the Bank decided to give a fitment to the petitioner at a higher Scale than Rs. 1,500.00 and fixed it at Rs. 1,680.00. Accordingly, it cannot be said that there was any reduction in the salary of the petitioner. It, thus, cannot be said that the aforesaid fitment of the petitioner by the Bank is, in anyway, arbitrary or illegal.

(12) It has been brought to my notice that all other Officers who were appointed along with the petitioner to the post of Industrial Relations Officer have been fitted in the aforesaid Scale of Rs. 1,680.00 per month and as against the same, no grievance has been raised by them in any Forum. In view of the aforesaid facts and circumstances, I find no merit in this writ petition and the same is dismissed, but without any costs.