(1994) 04 BOM CK 0023

In the Bombay High Court

Case No : Miscellaneous Company Application No. 24 of 1994

L.R. Castelino APPELLANT

Vs

Official Liquidator, High Court, Bombay RESPONDENT

Date of Decision : 26-04-1994

Acts Referred:

Citation : (1995) 84 CompCas 749

Hon'ble Judges : A.P. Shah, J

Bench : Single Bench

Judgement

A.P. Shah, J.—On a representation made by the applicant seeking promotion from the post of company-paid peon to the post of company-paid clerk, B. N. Srikrishna J. passed the following order on June 9, 1992 :

"In view of the repeated complaints made by the company-paid staff with regard to their recruitment and promotion, it is necessary to frame rules governing these issues. The official liquidator is directed to frame draft rules with regard to recruitment and promotion and get them approved by the company judge. Pending such approval, there shall be no further recruitment or promotion of the company-paid staff unless specific approval is obtained from the company judge."

2. The official liquidator failed to comply with the aforesaid directions in spite of several reminders and therefore the petitioner filed the present application for taking action against the official liquidator under the Contempt of Courts Act. The official liquidator has filed an affidavit offering his explanation for not framing the rules and on a perusal of the affidavit, I am satisfied that no action need be taken against the official liquidator. The official liquidator has also filed the draft rules but in my opinion the said draft is totally unsatisfactory and does not deal with the grievance of the employees.

3. Mr. Grover, for the applicant, states that without prejudice to Writ Petition No. 2049 of 1988 filed by and on behalf of the company-paid staff, a scheme be framed to fix the scales of pay of the company-paid staff on the principle of equal

wages and other benefits as of the Government staff and for providing them promotional opportunities. Mr. Grover brings to my notice schemes framed by the Calcutta and Delhi High Courts for the company-paid staff working in those courts. The official liquidator has no objection against framing a scheme for the company-paid staff but according to him the present company-paid staff is in excess. The official liquidator complains that the members of the company-paid staff are not maintaining discipline in the office. They are not maintaining assistants'' diary as required and they are not punctual and do not pay enough attention to work.

4. After hearing the learned advocate for the applicant and the official liquidator, I propose to frame the following scheme for the company-paid staff of the Bombay High Court :

(i) At the moment there are three scales of pay of the company-paid staff, namely, peon, junior assistant and senior assistant while in the Government staff there are six categories, namely, peon of class IV/daftary, lower division clerk/typist, upper division clerk/stenographer, junior technical assistant and superintendent grade-II. With effect from April 1, 1994, peons in company-paid staff are put in the scale of pay payable to peons in the Government. Junior assistants in company-paid staff are put in the scale of pay payable to lower division clerk of the Government. Senior assistants are put in the scale of pay payable to upper division clerk of the Government. Fitment will be done on the basis of yearly wages received by the company-paid staff.

(ii) Gratuity : Each company-paid staff may be allowed some amount of retirement benefit by way of gratuity and they may be allowed 15 days'' basic pay for each completed year of service subject to a maximum of 16 months.

(iii) Festival advance : The company-paid staff may be granted interest-free festival advance to the extent of Rs. 400 each once in a year which will be recovered in ten equal monthly installments out of their monthly salary.

(iv) L.T.C. : The company-paid staff may be granted L.T.C. for them and their family second class to and fro train journey by the shortest route once in four years.

(v) Travelling allowance and dearness allowance : Shall be available as per the existing rules.

(vi) Earned leave : The company-paid staff may be allowed 30 days earned leave on completion of one year''s service.

(vii) Medical leave : Medical leave may be allowed to the company-paid staff on the same conditions as available to the Central Government staff. But no encashment of this leave will be allowed.

(viii) Dearness allowance : Official liquidator to grant dearness allowance to the company-paid staff as and when the Central Government declares dearness allowance to its staff and at the rate declared by the Central Government.

(ix) House rent allowance/city compensatory allowance : Shall be made available to the company-paid staff on par with the Government staff. Thus, peons in company-paid staff shall be entitled to the house rent allowance and the city compensatory allowance as available to peons in the Government staff and junior and senior assistants shall be entitled to the house rent allowance and the city compensatory allowance as available to lower division clerks and upper division clerks respectively.

(x) The retirement age of the company-paid staff is fixed at 58 years exceptionable in special cases up to 60 years with the previous sanction of the court. However, at no time extension for more than one year shall be granted.

(xi) It is clarified that the benefits which are otherwise available to the company-paid staff, which are not specifically covered by the scheme, shall be continued.

(xii) No person shall be employed as a company-paid staff without the prior sanction of this court.

(xiii) Services of the company-paid staff shall not be terminated without the prior sanction of this court.

(xiv) The members of the company-paid staff shall maintain the assistants'' diary as prescribed by the official liquidator.

(xv) In case it is found that any member of the company-paid staff is guilty of dereliction of duty, it will be open to the official liquidator to take appropriate action including termination of services against such member subject to granting him an opportunity of being heard and sanction of this court.

(xvi) Staff strength an promotion : According to the official liquidator, the present company staff is in excess. The liquidator to make a detailed report to this court in that behalf within eight weeks. Directions relating to promotion shall be issued after the submission of the report.

5. The official liquidator is directed to forthwith take up with the Central Government and the regional director the matter for absorption of company-paid staff into Government service on seniority basis.

