

(2012) 10 MAD CK 0112

In the Madras High Court

Case No : Writ Petition (MD) No. 13075 of 2012

M. Michael Raj

APPELLANT

Vs

Canara Bank and Others

RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2013) 2 LLJ 192

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : D. Geetha for A.L. Ganthimathi, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioner prays for the issuance of writ in the nature of certiorari to quash the order passed by the Deputy General Manager, Canara Bank, declining the request of the petitioner for grant of stagnation increment. The petitioner joined the respondent Bank on 29.7.1978 as Clerk and has put in 33 years of service. The petitioner was promoted as an Officer JMG - I in March 1988 and posted to Coonoor Branch, Nilgiris. Due to ill health of the petitioner, he offered to give up his promotion after two years and sought reversion back from JMG - I to clerical cadre.

2. The request of the petitioner was accepted and he was reverted on 1.9.1990. The petitioner was granted increment, but was cancelled subsequently for the reason that the petitioner was promoted and it was after two years that, he offered to be reverted back to clerical cadre, therefore, he was not entitled to stagnation increment.

3. The learned counsel for the petitioner vehemently contends, that the service condition of the petitioner were governed by the 5th Bye-partite settlement dated 10.4.1989, which stipulates that stagnation increment can only be refused to an employee who at any time after the commencement of the settlement and after being offered or selected for promotion, refuses to accept such promotion.

4. The contention of the learned counsel for the petitioner is, that the petitioner does not fall within this, as he accepted the promotion and there was no question of refusal.

5. This contention is totally misconceived. Once the petitioner stood promoted, he could not claim stagnation increment.

6. The learned counsel for the petitioner further contends that sixth by-parte settlement came into force on 14.2.1995 and under this, the petitioner will be entitled to grant of stagnation increment. The relevant Clause reads as under:

5. Stagnation Increments

In substitution of Clause 4 B of Bipartite Settlement dated 10.4.1989, both clerical and subordinate staff shall be eligible for four stagnation increments at the rates and frequencies, as stated hereunder, and subject to the terms and conditions enumerated below:

(a) The clerical and the subordinate staff on reaching the maximum in their respective scales of pay shall draw three stagnation increments at the rate of Rs. 230/- and Rs. 100/- each, due under this settlement, and at frequencies of three years and two years respectively, from the dates of reaching the maximum of their scales as aforesaid and the fourth stagnation increment of Rs. 230/- or Rs. 100/- as the case may be, four years after earning third stagnation increment.

(b) A workman already in receipt of three stagnation increments, shall be eligible for the fourth and the last stagnation increment on 1.11.1994 or four years after receiving the third stagnation increment, whichever comes later.

(c) In supersession of Clause 1(ii)(b) of Bipartite Settlement dated 8.9.1983 read with "Note" to Clause 4 B of Bipartite Settlement dated 10.4.1989.

(i) Refusal to accept promotion at any stage or reversion within a year of promotion, wherever permissible under Bank's rules will not disentitle an employee from getting stagnation increments.

(ii) An employee shall not be eligible for stagnation increment/s, if he, after accepting promotion, seeks, and is granted, reversion after one year from the date of promotion.

(d) In respect of employees who, in terms of the provisions of the Bipartite Settlement dated 8.9.1983, had not received stagnation increment/s, will now be eligible for the same with effect from 1.11.1994 to the extent available to others under the previous settlements. In one year, however, of the due increment/s, not more than one stagnation increment will be released and the fourth stagnation increment will be granted after 4 years from the date the third stagnation increment is released.

7. It is not disputed that the petitioner is not be covered under Clause 6. As admittedly, he did not opt for reversion within one year but after two years and

therefore, as per Clause 5(c)(i), the petitioner is not entitled to grant of stagnation increment.

8. The learned counsel for the petitioner thereafter referred to Clause 5(d) to contend that the case of the petitioner will be covered under Clause (d).

9. This contention again is misconceived. It is not the case where the petitioner was not eligible to stagnation increment under the previous settlement but he was held disentitled to because of his promotion.

10. Therefore, his case is covered under Clause 5(c)(ii) and not under 5(d).

11. The contention of the learned counsel for the petitioner that there was no necessity to add 5(d) if the person was not to be given benefit which is again misconceived, as Clause 5(d) deals with different situation not covered under Clause 5(c)(ii). In view of the above, this Writ petition being devoid of any merit is ordered to be dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.