
(1997) 12 P&H CK 0090
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2035 of 1997

Makhan Lal Garg	Vs	APPELLANT
Punjab National Bank and Another		RESPONDENT

Date of Decision : 17-12-1997

Acts Referred:

Punjab National Bank Officer Employees (Discipline and Appeal) Regulations, 1977 — Regulation 14

Citation : (1998) 118 PLR 399

Hon'ble Judges : N.K. Sodhi, J;M.L. Singhal, J

Bench : Division Bench

Advocate : H.C. Arora, for the Appellant; Amarjeet Singh, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—Petitioner was working with the Punjab National Bank (for short the Bank) as an officer in the Junior Management Grade, Scale-I, and was posted at the Court Road Branch at Sangrur. He was placed under suspension on 25.1.1994 and a regular departmental inquiry against him is still pending. His grievance is that during the period of suspension he is not being paid dearness allowance on his reduced pay at the prevailing rates or at the rates at which it is being paid to other officers in the same grade.

2. In exercise of the powers conferred by Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Bank has framed regulations known as PNB Officer Employees (Discipline and Appeal) Regulations, 1976 (hereinafter called the Regulations). Regulation 14 deals with payment of subsistence allowance to an officer employee under suspension. This Regulation is being reproduced hereunder for facility of reference:-

"14. Subsistence Allowance During Suspension.

(1) An Officer employee who is placed under suspension shall during the period of such suspension and subject to Sub-regulation (2) to (4) be entitled to receive

payment from the Bank by way of subsistence allowance on the following scale, namely:

(a) Basic pay

(i) For the first three months of suspension 1/3rd of the basic pay which the officer employee was receiving on the date prior to the date of suspension irrespective of the nature of inquiry.

(ii) For the subsequent period after 3 months from the date of suspension -

(1) Where the inquiry is held departmentally by the Bank, 1/2 of the basic pay, an officer employee was drawing on the date prior to the date of suspension and

(2) Where the enquiry is held by an outside agency, 1/3 of the basic pay for the next three months and 1/2 of the basic pay for the remaining period of suspension.

(b) Allowances

For the entire period of suspension, dearness allowance and other allowances excepting conveyance allowance, entertainment allowance and special allowance will be calculated on the reduced pay as specified in items (i) and (ii), of Clause (a) and at the prevailing rates or at rates applicable to similar category of officer employees.

(2) During the period of suspension an officer employee shall not be entitled to occupation of a rent-free house or free use of the Bank's car or receipt or conveyance allowance or special allowance.

(3) No officer employee of the Bank shall be entitled to receive payment of subsistence allowance unless he furnishes a certificate that he is not engaged in any other employment, business, profession or vacation.

(4) If, during the period of suspension an officer employee retires by reason of his attaining the age of his attaining the age of superannuation, no subsistence allowance shall be payable to him from the date of his retirement."

3. A perusal of Clause (1) of the Regulation makes it clear that the subsistence allowance payable to an officer employee who is placed under suspension consists of basic pay and allowance. For the first three months of suspension the basic pay which he is entitled to receive is 1/3 of the pay which he was receiving on the date prior to the date of his suspension irrespective of the nature of inquiry that is pending against him. Thereafter, for the subsequent period where the inquiry is being held departmentally by the Bank he is entitled to 1/2 of the pay which he was drawing on the date prior to the date of suspension. In addition to the basic pay the officer employee under suspension is also entitled to dearness allowance and other allowances except conveyance allowance, entertainment allowance and special allowance which are calculated on the reduced pay as specified in items (i) and (ii) of Clause (a) at the prevailing rates

or at the rates applicable to similar category of officer employees. "Prevailing rates" would mean the rates prevailing at the time of payment. This has been further explained by adding the words "or at rates applicable to similar category of officer employees" which would mean in the case of the petitioner an officer employee of Junior Management Grade, Scale-I. Obviously, the officers in the Junior Management Grade, Scale-I are being paid dearness allowance at the rates prevailing at the time of payment to them. The petitioner is, therefore, entitled to dearness allowance at the time of reduced pay at the rates prevailing at the time of payment to him. Dearness allowance at the prevailing rate is, however, denied to him because of Circular No. 969/86 dated 17.10.1986 issued by the Personnel Division of the Bank addressed to all officers. By this circular the Chief of Personnel has issued the following clarification :-

"In the case of officers who are placed under suspension on or after 1.2.1984, they will be paid subsistence allowance at the stipulated scale on the basis of the basic pay in the new scale payable on the date prior to the date of suspension as also the allowances calculated on the reduced pay in the new scale at the rates prevailing on the date prior to the date of suspension."

4. By this circular, the Bank has clarified that an officer employee under suspension is to be paid allowances to which he is entitled including dearness allowance on the reduced pay at the rates prevailing on the date prior to the date of his suspension. In other words, in regard to an officer employee under suspension the subsistence allowance to him has been frozen as on the date of his suspension. This circular/clarification obviously runs counter to Regulation 14(1) quoted in the earlier part of the order, whereby such an officer is entitled to allowances including dearness allowance at the rates prevailing on the date of payment. It is well settled that circulars/instructions issued by any authority cannot go beyond the statutory rules/regulations. We have, therefore, no hesitation in quashing the impugned circular 969/86 dated 17.10.1986 (Annexure P-4 with the writ petition) in so far as it restricts the payment of dearness allowance to an officer employee under suspension at the rates prevailing on the date of his suspension and hold that the petitioner is entitled to dearness allowance at the rates as they prevail on the dates of payment.

5. In the result, the writ petition is allowed and the respondents are directed to pay the petitioner the arrears of dearness allowance after calculating the same at the rates prevailing on the dates of payment along with interest @ 12% per annum therein till the date of payment. This exercise should be completed at the earliest but not later than three months from the date of receipt of a copy of this order. There is no order as to costs.