
(2003) 12 MAD CK 0105

In the Madras High Court

Case No : W.P.Nos. 10491 and 10492 of 1998

S. Paramasivan and P. Chandrasekaran

APPELLANT

Vs

Pandyan Grama Bank

RESPONDENT

Date of Decision : 31-12-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 12 MAD CK 0105

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : C.R. Chandrasekar, for Aiyar and Dolia, for the Appellant; N.G.R. Prasad, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—In both these writ petitions, the prayer has been made for quashing the separate orders dated 4.7.1998 passed in respect of each of the petitioners by respondent No.2.

2. Since the facts and circumstances of the case are similar and the question of law to be decided was the same, both the writ petitions were heard together and shall be governed by the present common judgment.

3. The petitioner in W.P.No.10491/98 was appointed as Accountant under Pandyan Grama bank and was subsequently promoted as Branch Manager with effect from 1.1.1980. The petitioner in W.P.No.10492/98 was appointed as Accountant under the very same Bank on 24.11.1977. On 29.4.1980, a circular was issued by the Government of India merging the posts of Assistant Field Officer in the Rural Bank with that of Branch Manager w.e.f. 1.5.1980 and all were re-designated as Officers. A dispute having arisen relating to pay structure of the persons functioning under the Rural Banks, as per the direction of the Supreme Court, the National Industrial Tribunal was constituted. On 30.4.1990, the National Industrial Tribunal passed an award indicating that the Officers of

the Rural Bank should be entitled to the pay scale at par with the officers of the sponsor Bank. It was further suggested in the award that the equivalent posts in sponsor banks and their fitment into the new scales of pay applicable to officers of sponsor banks in corresponding posts should be decided by the Government of India. Accordingly, Equation Committee went into the matter and submitted a report on 8.1.1991. As per the Summary of recommendation relating to equation of posts in the Regional Rural Banks with sponsor Bank other than Kshetriya Kisan Gramin Bank, Manipuri, it was indicated that the Officers and Branch Managers of RRBs be equated with scale one Officer (as JM-I) of the sponsor Bank. The Equation Committee recommended that employees namely Senior Clerk cum Cashier and Officer/Branch Manager may be placed at the minimum as under. As per such recommendation those who have completed less than three years of service as on the appointed date, were recommended to be fitted at the second stage in the Sponsor Bank. Those who had completed three years of service but less than six years of service as on the appointed date were recommended to be fitted at the third stage in the sponsor Bank . Those who had completed six years of service but less than nine years as on the appointed date were recommended to be fitted at the fourth stage in the Sponsor Bank and those who had completed nine years of service as on the appointed date were to be fitted at the fifth stage in the Sponsor Bank.

4. Accordingly, the present petitioners were fitted appropriately by counting their service from 24.11.1977. Subsequently, however acting upon the clarification issued by NABARD , the 2nd respondent directed that the service of the petitioner should be counted only with effect from 1.5.1980 and not from 1977. Accordingly, the pay was refixed at the lower stage and there was a direction for recovery of the excess amount paid to the petitioners. Since such orders had been passed without following the principles of natural justice, the writ petitions were filed in the High Court which were allowed on the ground that principles of natural justice had not been followed and the matter was directed to be reconsidered.

5. On reconsideration, the second respondent has issued and passed similar order. The net result of such exercise is that the fitment of the petitioners is being done by counting their service w.e.f. 1.5.1980 and not earlier. The present writ petitions have been filed against such order.

6. A common counter affidavit has been filed on behalf of the respondents wherein it is indicated that prior to 1.5.1980, the Branch Manager and the Accountants were not considered at par with the officers of Sponsor Bank and since with effect from 1980 such Branch Manager and Accountant were treated at par and were re-designated in one common category as Officer, their service should be reckoned with effect from 1.5.1980.

7. In the course of hearing of the writ petition, the learned Senior counsel appearing for respondents has very fairly submitted that the direction regarding recovery of the excess amount was not supportable in view of the various

Supreme Court decision. However, he has vehemently submitted that the petitioners are entitled to receive only reduced salary after the date of fitment.

8. Learned counsel appearing for the petitioners has invited my attention to the (Staff) Service Regulations of the Pandyan Grama Bank and the various materials on record to contend that even though the salary of the Accountant was lower than that of the Branch Manager, under the relevant Rules and Regulations both were been treated as Officers. Regulation 2 contains the definition clause. Under Regulation 2 (ii) "Officer" means a person appointed to any of the posts specified in sub-regulation (2) of Regulation 3. Regulation 3(2) is extracted hereunder.

"Officers shall include the Chairman, Manager, Administrative Officer, Accountant, Field Officer, Field Supervisor and such other officer s may be specifically included in this category by the Board with the prior approval of the Central Government."

9. Learned counsel for the petitioners also invited my attention to several other documents which clearly indicate that the two petitioners were always considered as "Officers". The recommendation of the Equation Committee indicates about the service to be counted for the purpose of fixing the stage of scale of pay. In such recommendation it is nowhere indicated that past service is to be ignored. In such recommendation while considering the case of Officer/Branch Manager it is indicated that" those who have completed nine years of service as on the appointed date should be fitted at fifth stage in the sponsor Bank scales. While so recommending, it as no where recommended that the service of a particular "Officer" prior to particular date is to be ignored. The award of the National Industrial Tribunal also indicates " the Officer/Branch Manager of RRB will be equated with Scale I Officers (OJM-I) of the Sponsor Banks. In such award also there is no indication that the prior service rendered by the Officer is to be ignored. From such Award as well as the report of the Equation Committee , it is apparent that past service of an Officer is to be counted.

10. The only question that is required to be considered is whether the Accountant was an Officer. For finding answer to the aforesaid question, one has to consider the relevant rules and regulations applicable to the concerned Regional Rural Bank. As already indicated the relevant Rules and Regulations and documents of Pandyan Grama Bank clearly indicate that Branch Manager and Accountant were considered as "Officer of the Bank". The stand taken by the respondents to the effect that all such persons were considered within one group namely Officer w.e.f. 1.5.1980 and therefore their past service shall be counted only from 1.5.1980 does not appear to be reasonable or logical. In fact, such a clarification appears to be wholly arbitrary.

11. For the aforesaid reasons, both the writ petitions are allowed and the impugned orders are quashed. No order as to costs.