

(1961) 08 SC CK 0025
In the Supreme Court Of India
Case No : Civil Appeal No.100 of 1961

State Bank of India

APPELLANT

Vs

Parkash Chand Mehra

RESPONDENT

Date of Decision : 29-08-1961

Acts Referred:

Industrial Disputes Act, 1947 — Section 33

Citation : AIR 1962 SC 1261 : (1961) 3 FLR 305 : (1961) 2 LLJ 383

Hon'ble Judges : P. B. Gajendragadkar, J;K. N. Wanchoo, J;K. C. Das Gupta, J

Bench : Full Bench

Final Decision : Allowed

Judgement

K.C. Das Gupta, J.—The only question that arises for consideration in this appeal by the State Bank of India is as regards the effect of Para 292 of the Bank Award, as modified, on the respondent, Parkash Chand Mehra. This respondent entered the Bank's service on February 20, 1943--it was then the Imperial Bank of India. On January 31, 1950 he was getting a salary of Rs. 86 per month. On April 1, 1954 he was employed at the Abohar Branch of the Imperial Bank; and on May 15, 1954 he was transferred to Amritsar. Under the classification in the Bank Award, Abohar was a class IV area while Amritsar was a class II area. On the basis that Abohar was a class IV area the respondent's salary was fixed by the Bank on April 1, 1954 at Rs. 112 per month; and on his transfer to Amritsar--a class II area, in consideration of his length of service, he was given three increments and his salary was fixed at Rs. 133 per month. The Respondent's case is that he was entitled to three increments over Rs. 126 which it is said he was drawing at Abohar, that is, Rs. 148 per month. As this claim was rejected by the Bank authorities he made an application under Sections 33(b)(2) of the Industrial Disputes Act and for determining the money payable under the Award. The Labour Court, Delhi, accepted the respondent's case that his pay should have been fixed at Rs. 148 per month.

2. To determine the correctness of the Tribunal's decision, it is necessary first to

see what the respondent's pay would be at Abohar, on the basis that Abohar was a class IV area--at the time of his transfer to Amritsar, and what his salary would be, under, the modified Award, at Amritsar. We have to ascertain then, first the basic pay on January 31, 1950. The clauses of the Award which require consideration may be set out here conveniently:--

"(1) The workmen's basic pay as on 31st January, 1950, shall not be reduced in any case.

(2) Subject to Rule (1) the adjusted basic pay in the new scale shall not exceed what point to point adjustment would give him or the maximum in the new scale.

(3) In the matter of adjustment all efficiency bars, whether in the previously existing scales or in the new scales fixed by the award should be ignored.

(4) Subject to Rules (1) and (3) a work man's basic pay in the new scale shall be fixed in the following manner:--

(a) A workman shall first be fitted into the scale of pay fixed by the said award (hereinafter called the new scale) by placing him at the stage in the new scale equal to, or next above, his basic pay as on 31st January, 1950 in the present Scale then in force (herein called the existing scale).

(b) To the basic pay into which he is fitted under Clause (a) the annual increment or increments in the new scale as from that stage onwards should be added at the rate of one increment for every completed three years of service in the same cadre as on 31st January 1950, up to a limit of twelve years service; thereafter one increment for every four years of service upto another eight years' service, and after that one increment for every five years' of service.

(4A) After adjustments are made in accordance with the directions given, three further annual increments in the new scale will be added thereto for service for the three years 1951 to 1953. In addition, the workman will be entitled to draw his normal increment for 1954 on the 1st of April, 1954. Thereafter each succeeding year's annual increment shall take effect as and from the 1st April of that year."

3. We have therefore first to fix the basic pay in accordance with Rule 4(a), and then allow annual increments in accordance with Rule 4(b). But this is subject to Rules 1 and 2 above. We are unable to accept the contention raised on behalf of the respondent that the words "subject to" have not the effect of making what would otherwise follow from the application of Rules 4(a) and (b) subject to both the limits laid down in Rule 2. Giving as we must, natural meaning to the words used in Rules 2 and 4, we are of opinion that in no case can the basic pay be fixed at a higher figure than what the point to point adjustment would give to the workmen or the maximum in the new scale. Under Rule 4(a) the workman's basic pay is Rs. 90; and under Rule 4(b) to this basic pay has to be added two increments in respect of the new scale so that the basic pay would become fixed, apart from the limitation of Rule 2, at Rs. 100. If that were correct the salary

would be Rs. 126 on April 1, 1954. There is however the limitation introduced by Rule 2 which is made applicable to the fixation of the basic pay under Rule 4 by the words "subject to Rules, 1, to 3". Admittedly, point to point adjustment would give the respondent a basic pay of Rs. 90. This limit cannot therefore be exceeded; and so, in spite of Rule 4(b), the basic pay for applying the new scale, would be Rs. 90 and not Rs. 100. The consequence of this is that the pay to which he would be entitled, at the time of the transfer was Rs. 112; on transfer to a class II area he would get three increments--to give him the benefit of the higher area scale corresponding to the length of service, and his pay would be Rs. 133.

4. Abohar it may be mentioned was treated as a class III area with retrospective effect from April 1, 1954; calculations on that basis would however give the same result For, while the salary on January 31, 1950, would on that basis be fixed at Rs. 100, the salary at Abohar would increase to Rs. 126 on April 1, 1954 and on transfer from that class III area to Amritsar--a class II area, he will get one increment and his salary would be fixed at Rs. 133.

5. It appears that there was some confusion in statements made on behalf of the Bank by the Bank's witness Vishnoi. That however cannot alter the position as found above that on a correct application of the Bank Award the respondent was; entitled to have his pay fixed at Rs. 133 per month and not Rs. 148 per month on his transfer to Amritsar. The decision of the Labour Court that he was entitled to have his pay fixed at Rs. 148/- per month on his transfer to Amritsar is clearly wrong.

6. We therefore allow the appeal and set aside the award made by the Labour Court. The Respondent will get costs of the appeal in accordance with the order made by this Court on January 30, 1961.