

(1983) 11 KL CK 0005
In the High Court Of Kerala

State Bank of India

APPELLANT

Vs

State Bank's Staff Union

RESPONDENT

Date of Decision : 29-11-1983

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1984) 2 LLJ 73

Hon'ble Judges : K. Bhaskaran, Acting C.J.; V. Bhaskaran Nambiar, J

Bench : Division Bench

Judgement

Bhaskaran, Ag. C.J.

1. The sole question that falls for decision in this Writ Appeal is whether the employees of the State Bank of India, who went on strike and concertedly stayed away from work for a few hours each day would have to forgo wages for the whole of the days in question or only for the actual hours of absence for the respective days, in a case where the management had notified the staff that even if the employees were to strike work only for a few hours a day, their wages for the whole of such days would be withheld. The admitted fact is that the 2nd appellant (2nd petitioner), along with the other employees of the Bank, had stayed away from work for a few hours, each on 23rd, 25th and 28th January, 1980 and the management had withheld their wages for the whole of those three day"s. The writ petition sought the issue of a writ of certiorari quashing Ext. PI notice dated 22nd January, 1980 whereby the management informed the employees that those who took part in the proposed strike would not be entitled to wages for the days on which they did so irrespective of the fact whether they reported for duty after the strike hours (two hours from the commencement of the business hours on each of the concerned days) or not, and a declaration that the impugned deduction of wages for three days was without jurisdiction and illegal. Allowing the writ petition partially, the learned Judge ordered:

In the circumstances, I allow the writ petition to the extent of holding that the deduction of wages for periods exceeding the actual hours of absence is illegal:

but the deduction 30 will stand to the extent of actual hours of absence on the 23rd, 25th and 28th January, 1980.

The judgment under appeal was rendered on 28th January, 1982; before the Division Bench pronounced on the subject in *Shennv v. Central Bank of India* 1983 KLT 381, on 30th "September, 1982. Khalid, J., as he then was, speaking for the Bench in paragraph 23 of the Judgment has stated as follows:

From the above discussion what we find is that there is difference of opinion on the question whether the employer can deduct full day's wages for absence of a portion of the day. So far as the petitioners in O.P.No. 4788 of 1977 are concerned, they were clearly told that absence from duty for portion of the day would be treated absence for whole day and full day's wages would be deducted. They are officers not governed by the Payment of Wages Act. Their service conditions are governed by contract. An institution like a Bank has to discharge onerous duties to the public. Paralyzing the activities of the Bank for a portion of the day by a token strike would seriously affect the working of the Bank for the rest of the day also. An officer cannot be said to earn his salary by hours or minutes. The minimum unit for purpose of remuneration of an officer should be taken as a day. They absented from duty though for portion of the day, despite being warned about the consequences. Officers like the petitioners in this writ petition should have a sense of responsibility and should therefore suffer the consequences for their conduct in holding at ransom the Bank and the general public by activities like the one in question. On our finding that in the case of officers the day should be deemed to be the unit of the contract of employment, the order deducting a day's salary for what they did, cannot be invalidated in proceedings under Article 226.

2. In the light of the reasoning given by the Division Bench in the passage quoted above, the Judgment under appeal cannot be upheld. We do not also find any reason why the decision of the Division Bench requires reconsideration.

For the foregoing reasons we allow the Writ Appeal and dismiss the writ petition. There will be no order as to costs.