
(1966) 02 AP CK 0002
In the Andhra Pradesh High Court

Syndicate Bank Staff Association (by its general Secretary)	APPELLANT
Vs	
Regional labour Commissioner (Central) and Others	RESPONDENT

Date of Decision : 28-02-1966

Acts Referred:

Constitution of India, 1950 — Article 226, 276
Industrial Disputes Act, 1947 — Section 10A, 12, 18, 2

Citation : (1968) 2 LLJ 712

Hon'ble Judges : Seshachelapati, J

Bench : Single Bench

Judgement

Seshachelapati, J.—This is a petition under Article 226 of the Constitution of India for the issue of a writ of certiorari to quash a settlement dated 2 September 1966 purporting to be u/s 18(3) of The Industrial Disputes Act, 1947 and to issue a write of mandamus directing responds 1 and 2 to forbear from giving effect to the said settlement.

2. Respondent 1 to this write petition is the Regional Labour Commissioner. Respondent 2 is the Syndicate Bank. Respondent 3 is the Syndicate Bank Employess" Union. Respondent 4 is the All India Bank Employess" Association.

3. The Syndicate Bank is a limited Banking company with its registered office at Manipal, south Kanara. It has more than 200 branches and more than 3,000 employess. The employess of the bank would appear to be is two groups, or represented by the Syndicate bank Employess" Union (hereinafter called the union) and the other by the syndicate Bank staff Association, petitioner herein (hereinafter called the association), Respondent 3 union is affiliated to the All India Bank Employess" Association, respondent 4. The petitioner-association is affiliated to the National Organization of Bank workers.

4. The union was recognized by the management as the recognized union on 5 January 1965 as the management and the union, by means of natural settlement dated 14 November 1964, had accepted the code of discipline in industries as stated by Indian Labour Conference held in November 1958 and which came into

force with effect from 1 June 1958. The Petitioner-association is stated to be of a recent formation and it has not so far been recognized by the bank.

5. For the years 1956 to 1981, the bank paid an amount of Rs. 8,37,900 as bonus to its employee's. Being dissatisfied with the amount of the bonus respondent 3 union raised a dispute demanding the payment of additional bonus. The demand of respondent 3 union was originally taken up by respondent 4, the All India Bank Employess" Association, before the Chief Labour Commissioner (Ceatyal) at New Delhi, Eventually; the Chief Labour Commissioner (Ceatyal) at New Delhi requested the Regional Labour Commissioner (respondent 1 herein) to initiate consolation proceedings.

6. The petitioner association, in its letter dated 5 May 1965, requested respondent 1 to impale it in the dispute for the additional bonus, Respondent 1 issued notes to the parties fixing 4 June 1965, for holding the conciliation prsosediams. of the Bank, and the petitioner-association, Respondent 3 union did not attend the proceedings, Beth the union and the associations would appear to have asked for further time and the minutes were drawn up by the Regional Labour Commissioner There were some more meeting of the parties with the Regional Labour Commissioner. At a meeting hold on 24 August 1965 at Gazette, the representatives of the union as well as the association were present. The representatives of respondent 3 union took objection to the imploding of the petitioner-association was not a party to the bonus dispute of 1962 as the association was then not in existence; and secondly because the union alone was the recognized units. Upon these gerund, the union desired that the assooiatioa"s name should be deleted from the present proceedings. At that meeting, the secretary of the petitioner-association is affiliated, were present, During the disgusting, to affiliated, were present. During the discussions, is was represented that the management and the repetitive of respondent 3 union may have another found of discussions for the settlement of the bonus question from 1958 to 1984 that the a (X) round of discussions might be held in February 1965. The Regional Labour Commissioner observed in his dispute, is having abbatial number of membership behind them and as it is also a recognized union under the code of diesoline, he had no objection in granting time for stealing the outstanding matters alluding bonus from 1956 to 1961 and adjourned the matter for the month. As regards the plea of the association that they should he made parties, the Resiezal Labour Commissioner observed that it was up to the manage amount to accept or mot accept them as parties.

7. Though there was a meeting fixed to the held at Bangalore on 10 January 1966, it would appear to have been admeasured at the request of the parties. There was a meeting on 29 January 1966 at which besides the representatives of the bank, the president of the Bank Employess" Association; the seoretary of the National Organizastion of Bank Workers and Mohamed All; seoretary of the petitioner-isolation, were present. In the minutes of the meaning, It was yeooyded that Sampath (representing respondent 4) hand stated that the

management and the representatives of the action had one round of discussion for the settlement of bonus for the years 1956 to 1964, and that as there was likelihood of an amicable settlement of the dispute, the matter may be adjourned; No objection to the proposal was made by any of the other parties imploding the representatives of the petitioner-isolation; on 14 February 1966, respondent 1 retiled to the parties that the conciliation proceedings will be taken up on 23 February 1966. The representative of respondent 4 asked for further time for the bipartite talks. The representative of the petitioner-isolation also asked for time. On 19 February 1966, respondent 1 notified to all the parties that, in view of the fact that the parties were having mutual negotiations in the matter; the case was aerated as closed and that, in case no settlement was arrived at, the dispute may be foisted afresh before him.

8. In the meantime, respondent 3 anion raised demands for the payment of additional bonus for the year 1962, in terms of what is compendiously known as the Derail Bonus award of July 1962, The bank denied that the employees were entitled to any additional bonus. Effects for conciliation having failed. the matter was referred to the industrial) Hyderabad, Eventually, the tribunal passed an award dated 25 May 1965 directing that the workmen were entitled to a bonus of over four and a halfbacks of wages. The bank thereupon filed a writ pestilent (Write Petition No.876 of 1965) in this Court praying for the quashing of the award of industrial tribunal. The Write partition was admitted on 30 June 1965 and in Civil Miscellaneous Petition No,5798 of 1965, stay of the enforcement of the award was ordered by this Court.

9. On 23 July 1966, the bank wrote to respondent 1 that, in a joint meetings between the representatives of the Management and the workman held on 11 July 1966, an understanding had been reached on the industrial dispute regarding the bonus for the years 1956 to 1965 including 1962 which is providing before the High Court of Andhra Pradesh and that they would approach the Regional Commissioner Shortly for a formal attunement in the pending bonus dispute;

10. An agreement was reached on 11 July 1966 at Manipal, The terms of the settlement were attached to the Circular dated 3 August 1966 by the bank. They are as follows:

- (1) for the year 1965, as additional payments of bonus was payable.
- (2) for the year 1956, to 1964 it was agreed to settle the dispute by payment of additional bonus at the rate of 17 1/2 % of the annual bonus already paid to the employee who worked in our bank in the respective years.
- (3) A formal settlement would be signed before the Regional Labour Commissioner (Central), Hyderabad.
- (4) The case pending before the High Court of Andhra Pradesh regarding bonus for the year 1962 would be settled by this.

11. The petitioner-association states, in its affidavits, that this notice was displayed on the notices-board at Gandhi Nagar Branch at Bangalore on 12 August 1966. On 10 August 1966 with reference to the letter of the Regional Labour Commissioner dated 19 February 1966, the petitioner-association stated that they had addressed the management about their obligation under the payment of Bonus Act and requested the management to settle the matter amicably and that the bank had replied that the matter was receiving their attention. In that letter, the petitioner-association stated that they were raising a initiate consolidation proceedings.

12. After the terms of the settlement between the bank and respondent 3 union were known by means of the order of the ruler, the petitioner association wrote to the Regional Labour Commissioner on 30 August 1966 stating that the settlement reached between the bank and the union either directly or through the All India Bank Employees' Association (respondent 4) was not binding upon the petitioner-association. On 27 August 1966, the Bank wrote to respondent 1 to initiate consolidation proceedings on the bonus dispute for the years 1956 to 1965. On 2 September 1966, the conciliation proceedings were held at Hyderabad and finally, a settlement was signed by the parties in the presence of respondent 1 and the witnesses.

13. After this settlement was reached, an application (Civil Miscellaneous Petition No. 8175 of 1966) was filed in this Court in Writ Petition No. 876 of 1966 for recording the terms of settlement arrived at between the bank and the union in respect of the claim for additional bonus for the years 1956 to 1965. By an order dated 6 September 1966, this Court recorded the terms of compromise, one of the conditions of which was an appropriate modification of the award passed by the industrial tribunal in Industrial Dispute No. 39 of 1964 with respect to the bonus for the year 1962 and against which the main writ petition was filed.

14. The settlement recorded by respondent 1 is in these terms:

Memorandum of settlement arrived at on 2 September 1966 at Hyderabad during conciliation u/s 18(8) of the Industrial Disputes Act, 1947, between the management of Syndicate Bank, Ltd., manager, and the workmen of Syndicate Bank, Ltd., represented by Syndicate Bank Employees' Union, Bombay, affiliated to the All India Bank Employees' Association in the matter of claim for additional bonus for the years 1956 to 1965 (both years inclusive).

Present: Sri B. KAHRYSEMA RAO, Regional Labour Commissioner (Central), Hyderabad. Short report of the Cases.

The workmen of Syndicate Bank Ltd. represented by Syndicate Bank Employees' Union, All India Bank Employees' Association had made claims for additional bonus for the years 1956 to 1961 and after some discussions, the Regional Labour Commissioner (Central Hyderabad, has by his letter No. B1/1(2)/(6)/65 dated 19 February 1966 closed the case. The workmen represented by Syndicate Bank Employees' Union have now made claim for additional bonus for the years

1956 to 1965 (both years inclusive). The parties felt that the disputes for all the years 1958 to 1965 inclusive of 1962 could be settled amicably and after mutual discussions and as a result of the efforts of the Regional Labour Commissioner (Central), Hyderabad, at the conclusion on 2 September 1966 the matter is settled amicably on the terms indicated hereunder.

Terms of settlement

1. It is agreed by and between the parties that this settlement has been entered into without prejudice to the bank's contentions at law. It is agreed that the employees accept the amount mentioned hereunder in full and final settlement of their claims for additional bonus for the years 1956 to 1965 (both the years inclusive) and undertake that they will not make any further demand or raise any dispute in respect of bonus for the said years.

2. The union hereby agrees to relinquish its claims for payment of additional bonus to the employees for the year 1965. The bonus already paid is more than 4 per cent under the Payment of Bonus Act, 1965:

3. It is agreed that for the years 1956 to 1964 (both years inclusive) and irrespective of the award of the industrial tribunal; Hyderabad; for payment of additional bonus for the year 1962, the bank will pay additional amounts equal to 17 1/2 per cent (seventeen and a half per cent) of the annual bonus paid already every year is full and final settlement of all claims for payment of additional bonus for the years 1956 to 1964 (both years inclusive) provided that in case any employee who as on date of this settlement is no longer in the service of the bank due to death, retirement or otherwise, entitlement for payment of additional bonus under this settlement is restricted to such employee or his/ her legal heir preferring a claim in this behalf within a period of one year from the date of this settlement. It is agreed that the bank shall be at liberty to refuse to entertain any claims received on or after 2 September 1967.

4. It is agreed that a copy of this settlement shall be filed in the Writ Petition No.876 of 1965 pending before the High Court of Andhra Pradesh, Hyderabad, and the Bank shall move the High court for orders or directions so that the impugned award dated 25 May 1965 in Industrial Dispute No.39 of 1964 of the industrial tribunal, Hyderabad, shall stand modified as per the terms of this settlement. The union agrees to do all that is necessary in obtaining such directions or orders from the High Court.

5. It is agreed that the ad hoc pay made under this settlement shall neither be treated as a precedent nor taken as the basis to govern the principles for the determination of bonus in future but nevertheless this settlement shall be final and binding on the parties as regards the amount of bonus payable for the years 1956 to 1965 (both years inclusive).

6. The disbursement of additional bonus payable under this settlement shall be made on or before 15 October 1966.

7. The amount agreed to be paid as additional bonus for the years 1956 to 1964 (both inclusive) in pursuance of this settlement shall be disallowed against a receipt in the form given below thereby discharging the bank from all liability for payment of bonus for the years.

Form of receipt

Received from Syndicate Bank Ltd., a sum of Rs. (rupees) only being the additional bonus in terms of settlement dated 2 September 1966 arrived at Hyderabad before the Regional Labour and Industrial Tribunal settlement of the claim for additional bonus for the years....

8. The parties shall report implementation of the settlement on or before 31 October 1966 after which date, if no report is received, the implementation will be pursued.

15. It is the legality of this settlement that is impugned in this writ petition. The petitioner-association has filed a long affidavit in support of the writ petition. Ocuster affidavits were filed by respondent 1. Regional Labour Commissioner, respondent 2 bank and respondent 3 union. An additional affidavit was filed by the petitioner-association to which replies were filed by respondent 2 bank and respondent 8 union;

16. In the course of a full and forcible argument, the learned counsel for the petitioner-association has raised the following broad contentions:

(1) That the settlement entered into by respondent 1 is not a settlement arrived at in the course of conciliation proceedings within the meaning of Section 18(8) of the Industrial Disputes Act and that, if at all, it can be a settlement within the meaning of Section 18(1) of the said Act:

(2) That respondent 3 union cannot enter into settlements so as to bind all the workmen:

(3) That the petitioner-association should have been impleaded as a party to the dispute and that, inasmuch as it was not given an opportunity to make its representations regarding the settlement, the procedure adopted is violative of the principles of natural justice:

(4) That the settlement is highly detrimental to the employees inasmuch as, in respect of a sum of Rs. 28,09,562 42, a sum of Rs. 3,84,423 37, was accepted, a sum which is less than what was awarded by the industrial tribunal as bonus for the year 1962 also; and

(5) That, by securing the reinstatement of 140 members of the union; who were dismissed by the bank the union bartered away the claim to bonus of a sum of Rs. 24,25,139.05, and that, therefore, it is a collusive and fraudulent settlement not binding on the entire body of employees.

17. Before considering the contentions of the learned counsel for the petitioner, it

is necessary to deal with the preliminary point raised by the learned counsel for respondent 2 bank it is stated that a petition under Article 226 of the Constitution is not maintainable in the instant case, because firstly that, on the allegations of the petition, some disputed facts will have to be gone into and that simply an enquiry is beyond the scope of a petition under Article 226 of the Constitution; and secondly, that the relief prayed for is declaratory in character and such a relief cannot be granted in the present writ petition.

18. I do not think there is force in either of these contentions. When a challenge is made as to the nature of the settlement in respect of whether or not it was during the course of the conciliation proceedings and also as to the representative capacity of the union, certain facts have to be ascertained and such an enquiry must necessarily be germane to the determination of the legal contentions and the grant of the reliefs prayed for. There is also no force in the second contention that the form of the relief is declaratory in character which cannot be granted in a petition under Article 226 of the Constitution. In *Employees in The Employees in the Caltex (India), Ltd., Madras and Another Vs. The Commissioner of Labour and Conciliation Officer, Government of Madras and Another*, Balakrishna Ayyar, J. took the view that a writ of certiorari could be directed only against judicial or quasi-judicial proceedings; that when acting u/s 12 of the Industrial Disputes Act, the conciliation officer is not performing judicial or quasi-judicial functions; and that the jurisdiction of the High court under Art. 226 of the constitution could not be invoked to get a declaration that the settlement under Section 18 was not binding on the petitioner. The learned counsel on the petitioner contended, and in my opinion rightly, that in the instant case it is moot is not valid and that in any case, since a prayer for the issue of a writ of mandamus was asked, there would be no jurisdiction under Article 226 of the Constitution. He relied upon a decision of a *Natarajan (R.) and Others Vs. Regional Assistant Commissioner of Labour and Others*, where it was held that a declaration can be issued even in a petition under Art. 226 of the Constitution. In holding so; the learned Judges relied upon a decision of the Kerala High Court in *Thomas and Others Vs. Industrial Tribunal and Others*, and the decisions of the Supreme court in *Bidi, Bidi leaves and Tobacco Merchants' Association v. Bombay State* 1961 II L.L.J. 663 and *A.B. Abdulkadir and Others Vs. The State of Kerala and Another*, , In *Monthly-rated workmen of Parce Leslie & Co., Ltd. Cachin v. Leslie Commissioner and Ors.* 1966 I L.L.J. 503 an objection that a declaration cannot be given in a petition under Article 226 of the Constitution was also overruled.

19. In exercising its powers under Article 226 of the Constitution; the High court has a wide discretion in the matter of granting the writs or orders to suit the exigencies of a particular case as held by the supreme court in *Charanjit Lal Chaudhary v. Union of India* 1951 S.C.J. 29 I do not think, therefore; there is any substance in the preliminary objection raised by the learned counsel for the respondents.

20. The first question that falls to be determined is whether the impugned

settlement is in the course of conciliation proceedings within the meaning of Section 18(3) of the Industrial Disputes Act. Section 18 is in these terms;

18. (1) A settlement arrived at by agreement between the employer and workman otherwise this is the course of conciliation proceedings shall be binding on the parties to the agreement.

(2) An arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under Sub-section (3A) of Section 10A or an award of a labour court, tribunal or national tribunal which has become enforceable shall be binding on-

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute; unless the said arbitrator, labour court, tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) Where a party referred to in or (a) or (b) is an employer, his heirs, successors, assigns, in respect of the establishment to which the dispute relates;

(d) Where a party referred to in Clause (a) or (b) is composed of workmen; all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

21. The question is whether the settlement falls within the scope of Section 18(1) or 18(3). The Supreme Court has considered the relevant scope of the two provisions in *Ramnagar Cone and Sugtar Co. Ltd. v. Jatin Chakravorty* 1961 1 L.L.J.224 as follows:

Section 18(1) provides that a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement; whereas Section 18(3) provides of conciliation proceedings which has become enforceable shall be binding on all the parties specified in Clause (a), (b), (c) and (d) of Sub-section (3). Section 18(3) makes it clear that, where a party referred to in Clause (a) or (b) is composed of workmen; all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part, would be bound by the settlement. In order to bind the workmen it is not necessary to show that the said workmen belong to the union the conciliator, The whole policy of S18 appears to be to give as extended operation to the settlement arrived at in the course of conciliation proceedings and that is the object, With which the four categories of persons bound by such settlement are specified in Section 18, Sub-

section (3).

22. The expression "settlement" is defined in Section 2(p) as follows:

"Settlement" means a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and workman arrived at otherwise than in the course of conciliation proceedings where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the appropriate Government and the conciliation officer.

23. It is clear from the facts of this case that a dispute regarding the additional bonus due to the employees was raised by the union before the conciliation officer and there were several meetings in relation thereto part of this judgment. But what is strenuously pressed upon me by the learned Counsel for the petitioner is that, in his proceedings dated 19 February 1966 respondent 1 had closed the dispute and as such the settlement recorded on 2 September 1966 cannot be said to be a settlement in the course of conciliation proceedings. The memorandum of respondent 1 dated 19 February 1966 is in these terms:

In this connexion I have to inform you that the case has been pending for a pretty long time and several adjournments were given previously at the request of the parties. During the last conciliation proceedings held by me on 29 January 1966 at Bangalore, the parties informed me that the issue is under mutual negotiation and that there is likelihood of arriving at an amicable settlement of the dispute. As such, the parties requested for one more adjournment as a special case and it was granted. The conciliation has now been fixed by me on 23 February 1966—vide this office letter of even number dated 14 February 1966. But now Sri Sampath of All India Bank Employees' Association, New Delhi, has telegraphically (telegram received today) requested for farther adjournment in view of the bipartite talks on the issue. Likewise the Syndicate Bank Staff Association, Bangalore, has also telegraphically requested for adjournment. As already stated above, since the issue is pending for quite a long time no further adjournment can be granted in the matter. In view of the fact that the parties are having mutual negotiations in the matter, the case is treated as closed in this office. In case no settlement is arrived at you may, if you so desire, raise the dispute afresh before this office.

24. This was communicated amongst others to the petitioner-association.

25. After the receipt of this memorandum, the bank and the union would appear to have been continuing their negotiations and eventually the bank intimated in its letter dated 23 July 1966 that an agreement had been reached with respect to the bonus dispute for the years 1956 to 1965 including 1962 and that they would approach respondent 1 shortly for a formal settlement in the pending bonus dispute.

26. It is contended by the learned Counsel for the petitioner that the parties

having already reached a settlement there was nothing for the conciliation officer to do and that the proceeding of respondent 1 dated 2 September 1966 were, therefore; illusory and deceptive.

27. The respondent's counsel have contended that the mere fact that parties had arrived at a settlement will not mean that conciliation proceedings are at an end. Reliance was placed on a decision of the Bombay High Court in *The Textile Labour Association, Ahmedabad Vs. The Labour Appellate Tribunal of India and Others*, where Chagla, Chief Justice; held that had arrived at a private settlement does not mean that the industrial dispute has ceased to exist so as to take away the initiative to initiate the conciliation proceedings. It is argued that the decision of the Bombay High Court was rendered before the present amended definition of "settlement" and that it was also not approved of in some decisions. It is unnecessary to go into this question I have to decide is whether the main question I have to decide is whether the present settlement was reached in the conciliation proceedings which, of course, will depend upon the evidence and circumstances of the case.

28. On 27 August 1966, the bank requested respondent 1 to initiate conciliation proceedings, in the above matter at an early date and resolve the dispute that was pending for a long time. Respondent 1 directed that, since the management had then requested to initiate conciliation proceedings and in the light of the minutes of the discussion of the parties dated 11 July 1966, as industrial dispute may be registered and a suitable date after 12 September 1966 fixed. In the counter-affidavit, respondent 1 states:

On 2 September 1966 conciliation was held and after protracted discussions during which this respondent's suggestions on a few points were accepted, a settlement was brought about. The letter referred to by the association was received on 3 September 1966 after the settlement had been signed on 2 September 1966.

29. No valid reason has been urged as to why I should not accept the statement of respondent 1. In these circumstances. I am of opinion that the settlement recorded by respondent 1 was during the course of conciliation proceedings.

30. It must also be remembered that the dispute raised was with respect to the additional bonus for the years 1956 to 1961. By the letter dated 10 August 1966, that petitioner-association wrote to respondent 1 that they were seeking to raise a fresh dispute and that he may initiate conciliation proceedings. The said dispute can obviously be with respect to the additional bonus for the years 1956 to 1961. Further, it is obvious from the dates that this letter was written long after respondent 1 had, in his memorandum dated 19 February 1966, closed the proceedings then pending. Respondent 2 Bank wrote to respondent 1 on 23 July 1966 that the bonus issue was discussed at the union and that an understanding has been reached for the payment of additional bonus for the years 1956 to 1966 including the question of bonus for the year 1962, this fact has relevance

on the question whether or not a fresh dispute was raised before the conciliation officer before he recorded the settlement on 2 September 1966.

31. It is contended by the learned Counsel for the petitioner that the letter dated 27 August 1966 of respondent 2 to respondent 1 to initiated the conciliation proceedings was after the communication of the petitioner-association dated 10 August 1966 and that so called conciliation proceedings were initiated as if to make out that there was a fresh dispute which needed settlement by conciliation. I do not see any force in the contention.

32. It is also contended by the learned Counsel for the petitioner that the settlement as defined in Section 2(p) of the Act must be read with the definition of an industrial dispute in Section 2(k) and that, when the conciliation officer had closed the conciliation proceedings. There can be no subsisting dispute. On the facts of this case; as stated already, the original dispute related to the additional bonus for the years 1956 to 1966, but the settlement recorded and recorded by respondent was with respect to the additional bonus for the years 1956 to 1965 including the bonus for the year 1962. the contention of the learned Counsel that there was no fresh dispute as to the additional bonus and that, therefore, the conciliation officer could not act u/s 12 of the Act has no force.

33. It is then contended that the conciliation officer. Whose duty it is to bring the management and workers together with a view to enter into discussions on the questions in dispute and to assist them in settlement, had merely recorded the settlement already reached and that, therefore, his report is not in terms of S12 (4) of the Act. From the affidavit filed by respondent 1, it is clear to me that there were negotiations and that, at his instance, certain points were accepted by the parties.

34. Another contention raised by the learned Counsel was that, before the settlement, no notice was given to the petitioner-association even though the petitioner-association was attending several of the meetings. The absence of such notice is alleged to constitute a violation of the principles of natural justice.

35. It may be recalled that, in the conciliation proceedings on 29 January 1966, the representative of respondent 4, All India Bank Employees' Association, stated that the management and the representatives of respondent 3 union one round of discussions for the settlement of bonus issue for the years 1956 to 1964 and that the next round of discussions would be held by the end of February 1966 and that, as there was likelihood of an amicable settlement of the dispute the Regional Labour Commissioner may adjourn the proceedings. The Secretary of The National Organization of Bank Workers with which the petitioner-association was affiliated was petitioner-association was affiliated was present. He stated that he had nothing to say in the matter. Mehmmmed Ali, the secretary of the petitioner-association; was also present at that meeting. He does not appear to have intervened in the discussions. In the petitioner-association had no motive of the negotiations going on between the bank and the union.

36. Reliance was placed on a decision of the Kerala High court in *Monthly-rated workmen of Pierca Leaiie & Co. Ltd. Cechin v. Labour Commissienter and Ors.* 1966 I L.L.J. 503 (vide supra) for the position that the settlement reached without the concurrence of all the disputants is not valid. The principle of that decision must be limited to the facts of that case. Further, in this case, the petitioners-association was seeking in vain to get itself impleaded in the dispute and though on some occasions in the meetings it was present; it cannot be said that it was doing so in its right as a reorganized association. On the facts of this case, I do not see the reasons of the petitioner-association,

37. It now remains to consider whether the settlement arrived at is binding on all the employees of the bank u/s 18(3) of the Article. This question will depend upon whether or not the union was the proper body to negotiate in the course of collective bargaining with the management. Respondent 3 union was functioning for a long time and was affiliated so the all India Bank Employees Association (respondent 4). It has claimed and it is not disputed that it has a large majority of the workers on 5 January 1966 as the union and the bank had accepted to abide by the code of discipline in industry as laid down by the Indian Labour conference. On the other hand, the petitioner-association, though a registered trade union; would appear to have come into existence in October 1964. The partialness of its membership has not been disclosed in the affidavit filed in support of the writ petition and the allegation of the respondents that its strength is very meager has not been seriously challenged. Respondent 2 Bank had not reorganized it as a union. On the contrary, even though the petitioner-association had applied for recognition, the bank has conceded the claim. In these circumstances, it seems to me that it is only with the union that the management could negotiate for. In this connection, the observations of the learned Chief Justice of Madras in *workers of Buckingham and Carnatic Co. v. Labour Commissioner and Ors.* 1964 I L.L.J. 253 (vide supra) may be usefully extracted at pp. 261-262:

But the question in the present case is not whether the employees' union is competent to raise an industrial dispute, but whether a conciliation settlement with a union (which had as equal right to raise a dispute) that has been recognized by the management will bind all the workers....Again so far as the management is concerned, one can say it that it has been an obligation only to bargain collectively with its employees. That would imply that it should reckon normally with one spokesman on their behalf who could represent the entire body of workers. It was this principle which was accepted at the tripartite conclusions which entitled a union which has a majority of its workers on its rolls to recognition by the management in the matter of negotiations.

38. In the instant case, I have no manner of doubt that the union represents a large majority of employees of the bank. It has been the recognized union presumably because it satisfied the requirements for such recognition in accordance with the principles laid down in the code of discipline. There is no

force in the contention of the learned Counsel for the petitioner that the code of discipline has no statutory force or legal sanction behind it. The code of discipline contains the conclusions of the tripartite meeting of the main elements interested in the industrial peace. The terms of that code are not lightly to be set asides, In these circumstancer, it is abundantly clear to me that the only competent and representative organization to negotiate with the management in the matter of settlement of the dispute is respondent 3 union. It is that union that has come to a settlement with the management. I, therefore, held that the settlement arrived at between the management and respondent 3 union during the course of the conciliation proceedings on 2 September 1966 would be binding not only on the members of the said union, but on all the employees of the bank in terms of Section 18(3).

39. It has been contended that the settlement is not bone fide in the sense that it was the result of a bargain between the management and the union in respect of the reinstatement of 140 workers belonging to the union. The suggestion is that, by securing the reinstatement of its members, the union has bartered away the legitimate rights of the employees in the order of over 24 lakes of rupees. This allegation has specifically raised in the additional counter-affidavit filed on 16 October 1957. This allegation has been denied both by the bank and the union. It is stated by the bank that the reinstatement of the employees had no connexion whatsoever with the settlement. The reinstatement was subsequent to the settlement. In the additional counter-affidavit filed by the union, it is stated that there was no connexion between that reinstatement and the settlement of the bonus issue, It is further alleged that the question of the dismissed employees was taken up separately. I am not persuaded that the union had bartered away the large claims for additional for additional bonus as consideration for reinstatement of some of its members.

40. It is contended by the learned Counsel for the petitioner that, in accordance with the Desai a ward of July 1962 the bonus amount should be determined with reference to the available surpluses and when so computed, a sum of Rs.14,44,900 would be due for the years 1956 to 1961 after giving credit to Rs.8,37,900 already paid. Similarly for the years 1963 and 1964, after deducting the bonus of Rs.10,33,800 already paid, a sum of Rs.6,81,400 is stated to be due. Similar figures were given for the year 1963. in the context of these large amounts due, the settlement at the rate of 17 1/2 per cent of bonus already paid amounting to a meager sum of Rs.3,84,423,37 is alleged to be deleterious to the interests of the employees. The management door not admit the correctness of these figures, and the fact that the recognized union of the employees had accepted to receive an additional bonus on principles agreed to in the settlement shows that the majority of the workers were of opinion that suck large amounts were not due or available.

41. The learned Counsel for the petitioner has contended that, in respect of the year 1962 alone, the industrial tribunal has awarded a sum of Rs.4,57,726,82 as

additional bonus. The decision of the tribunal was challenged by the bank in Writ Petition No. 876 of 1965 on the file of this Court pleading inter alia that the award was inconsistent with the provisions of the payment of Bonus Ordinance 3 of 1965. after the settlement was reached on 2 September 1966, the parties applied for recording the terms of the settlement in the writ petition and it was so ordered by this Court. In the events that have happened, I see no justification for holding that the award of the industrial tribunal would serve as a basis for assessing the possible amounts that would be due to the employees as additional bonus.

42. In the additional counter-affidavit filed by respondent 3, it has been stated that there were bonus disputes in all the banks all over the country in the banking industry for the years 1956 to 1961 and onwards; that all such disputes were settled through negotiations between the respective banks and affiliates of respondent 4, All India Bank employees' Association; that all the disputes had been amicably settled by consent; and that the settlement now impugned was, by no means an isolated instance from which any adverse inference could be drawn. This aspect of the question may not have a direct impact as to whether or not the impugned settlement is valid; but it is certainly worthy of consideration.

43. So far as the bonus due for the year 1966 is concerned, the bank and the union would appear to have arrived at a settlement on 9 July 1967. That question does not fall directly to be gone into in this case.

44. In the view I have taken that the settlement reached on 2 September 1966 was firstly during the course of the conciliation proceedings; secondly that it was a bona fide settlement, and thirdly that it was negotiated between the bank and the recognized union; I hold that the settlement is binding on all the employees u/s 18(3) of the Industrial Disputes Act.

45. In the light of the above conclusions, I do not think it necessary to refer to some other contentions raised by the learned Counsel for the petitioner and of respondents.

46. The writ petition, therefore, fails and is dismissed with costs. Advocate's fee Rs.100.