

SUPREME COURT OF INDIA

Indian Bank Ltd. Madras

Vs.

Indian Bank Employees' Union

C.A.Nos.63 and 64 of 1957

(B. P. Sinha, C.J.I., P. B. Gajendragadkar and K. N. Wanchoo, JJ.)

20.10.1959

JUDGEMENT

GAJENDRAGADKAR, J.:

1. These two appeals are directed against the decision of the Labour Appellate Tribunal delivered on April 20, 1954 in the industrial dispute between the several Banks and their employees. It appears that this dispute was referred to the adjudication of the Sastri Tribunal by the Central Government on January 1, 1952. The Sastri Tribunal made its award covering a large number of points raised before it. The said award was challenged both by the Banks and their employees before the Labour Appellate Tribunal which gave its decision on April 20, 1954. The decision, like the award, dealt with several points of dispute between the parties. Against a part of this decision the present appeal has been filed by the Indian Bank Ltd., (hereinafter called the appellant) by special leave; and only two points are raised before us on its behalf by Mr. Sastri.

2. The first point has reference to the direction given by the Sastri Tribunal in regard to the stoppage of annual increments for any particular year at the discretion of the Bank. The Sastri Tribunal directed that such annual increments may be stopped if the ratio of the Bank's gross profits to the working fund during the previous year is less than 75 per cent of the average of similar ratios for the four years immediately preceding that previous year subject to the two provisos mentioned in paragraph 86 of the award. The propriety of this direction was questioned by the respondents before the Labour Appellate Tribunal; and to some extent the respondent's plea succeeded. The appellate tribunal agreed that there should be a provision of the kind made by the award for suspension of increments but it thought that it would be better to alter the said direction in one particular, viz., that the general stoppage may only be allowed if the ratio of the gross profits to the working fund of the previous year is less than 50 per cent of the average of similar ratios in the four immediately preceding years (paragraph 183). Now the contention which the appellant seeks to raise before us is that the appellate tribunal erred in reducing the ratio from 75 per cent to 50 per cent. We do not see how we can entertain this contention in the present appeal under Art. 136. It is obvious that in fixing the relevant ratio which would justify the stoppage or suspension of increments no principle or rule could be relied upon and no objective date could be supplied. The conclusion in that behalf had necessarily to be based on empirical consideration of justice and fairplay and if the appellate tribunal thought that 50 per cent would in the context be more appropriate and reasonable we cannot interfere with the said decision. Therefore the first contention raised by the appellant fails.

3. The second contention raised is that the tribunal had no jurisdiction to entertain the respondent's

claim for a gratuity scheme having regard to the fact that under S. 25F of the Industrial Disputes Act the respondents are now entitled to claim retrenchment compensation. We have already considered this question and answered it in favour of the employees in the case of the Indian Hume Pipe Co., Ltd. v. Their Workmen, Civil Appeal No. 169 of 1958, D/- 16-10-1959; (AIR 1960 SC 12). Therefore the second question raised by the appellant must also be answered against it.

4. Before passing final orders in these appeals it is necessary to refer to another point which these appeals have raised and which has been considered by this Court in the cases of State Bank of India v. Their Employees and Punjab National Bank v. Its Employees, Civil Appeals Nos. 56 to 61 of 1957 and Civil Appeal No. 62 of 1957: (AIR 1960 SC 12). The said appeals as well as the two present appeals raised a common question about bonus and all of them were heard together by the Constitution Bench of this Court. The point about bonus raised by the banks has been allowed by the judgment of this Court delivered on May 12, 1959 in the cases of State Bank of India and Punjab National Bank (supra), Civil Appeals Nos. 56 to 61 of 1957 and Civil Appeal No. 62 of 1957: (AIR 1960 SC 12). Though the two present appeals were heard along with the said appeals no order was passed on them because two subsidiary questions still remained to be considered; and they were left to be decided by a Division Bench. That is how these appeals came before us for final disposal. The subsidiary points raised by the appellant have been rejected by us but it is common ground that the point about bonus raised by the appellant must be allowed in view of the decision of this Court in the cases of State Bank of India and Punjab National Bank (supra). Civil Appeals Nos. 56 to 61 of 1957 and Civil Appeal No. 62 of 1957; (AIR 1960 SC 12).

5. In the result the appeals will be partly allowed in regard to the question of bonus, and the rest of the award under appeal is confirmed. Under the circumstances of the case there will be no order as to costs.

Appeals partly allowed.

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