Punjab National Bank Limited

Vs

K. L. Kharbanda

Civil Appeal No. 103 of 1961

(P. B. Gajendragadkar, A. K. Sarkar, K. N. Wanchoo JJ)

02.02.1962

JUDGMENT

WANCHOO, J. -

This is an appeal by special leave in an industrial matter. The respondent Kharbanda is a supervisor in the Punjab National Bank Limited which is the appellant before us. The dispute relates to the fixation of his salary in accordance with the All India Industrial Tribunal (Bank Disputes) Award (hereinafter referred to as the Sastry award). The respondent made an application to the Central Labour Court, Delhi, under s. 33-C(2) of the Industrial Disputes Act, No. XIV of 1947, (hereinafter called the Act), and his case was that he was entitled to certain benefits capable of being computed in terms of money under the Sastry Award, but the appellant had made a wrong calculation in fixing his basic salary. Therefore, the respondent prayed that the benefit to which he was entitled by fixation of his basic salary correctly should be computed in terms of money and determined by the Labour Court. His case further was that when his basic salary was rightly fixed under Sastry Award he would be entitled to a sum of Rs. 6,428.28 nP. as arrears upto the date of his application.

The application was opposed on behalf of the appellant and two contentions were raised to meet the case put forward by the respondent. In the first place it was urged that the application was not maintainable under s. 33-C(2) of the Act and the Labour Court had no jurisdiction to decide it. Secondly, it was urged that the manner in which the appellant had fixed the basic salary was correct and there was therefore no force in the contention of the respondent that he was entitled to certain benefits of which he had been deprived and which should be calculated by the labour court.

Before we deal with the two points which arise in the present appeal we may refer to the provisions of the Sastry Award out of which the present dispute arises. Originally another tribunal known as the Sen Tribunal was appointed in June 1949 to go into the disputes between various bank all over the country and their employees. The Sen Tribunal made an award after an exhaustive inquiry but on appeal to this Court the said award was set aside in 1951. Thereafter Act II of 1951 was passed as a temporary measure for freezing certain provisions of the said award in order to prevent the spread of the prevalent unrest amongst the bank employees in question. The said dispute was then referred by the Central Government to the Sastry tribunal in January 1952. This tribunal held an elaborate inquiry and made its award which was published on April 20, 1953. Appeals were preferred by the banks and their employees against the said award before the Labour Appellate Tribunal, and on April 28, 1954, the Appellate Tribunals substantially confirmed the recommendations and directions of the Sastry tribunal with certain modifications. In the present appeal, we are not concerned with the further history of rhe dispute, for it is admitted that the provisions of the Sastry award with respect to the matter in controversy before us have remained

unmodified when finally the dispute was set at rest by the Industrial Disputes (Banking Companies) Decision Act, (XLI of 1955).

The Sastry tribunal decided after considering the matter from all aspects to provide only one scale for clerks in all banks, through banks themselves were divided into four classes and the places where the banks were situate were divided into three areas. In the present appeal we are concerned with class A, area I, for which the grade provided was from Rs. 85 to Rs. 280 with varying increments (see para 119 of the award) to which it is unnecessary to refer. After having provided one cadre of clerks, the Sastry tribunal then considered the question of certain special posts where the incumbent required special skill for the efficient discharge of his duties and the problem before it was whether there should be a separate scale for such special posts or whether the incumbents of such posts should be in the same scale as clerks with certain advantages in the shape either of additional increments in the same scale or additional allowance over and above the scale or a combination of both. The Sastry Tribunal rejected the formulation of a separate scale for these special posts and decided to grant a special allowance over and above the pay of the clerical scale. One such class of special posts with which the Sastry award was concerned was the class of supervisors to which the respondent belongs and it provided a special allowance of Rs. 50/- in the case of A class banks in area I for supervisors by para. 164 thereof.

Then arose the question of fixing the pay of the employees of the banks into the new scale provided in the award and that matter was dealt with in para. 292. The Sastry award divided the employees into categories, namely, (i) those who entered the service of the banks before January 31, 1950, and (ii) those who entered the service of the banks after January 31, 1950. In the present case we are concerned with those who joined the service of the bank after January 31, 1950. The relevant provision with respect to such employees is cl. (7) of para 292 which reads as follows :-

> "(7). The workman shall be fitted into the new scale of pay on a point-to-point basis as though it had been in force since he joined the service of the bank, provided that his adjusted basic pay is not less than what it would be under a point-to-point adjustment on the corresponding 'pre-Sen' scale."

It may be mentioned that the respondent was appointed as a supervisor by the appellant on April 22, 1951 on the basic salary of Rs. 120/- per mensem. At that time the basic scale for supervisors was Rs. 120-8-200-EB-10-300 while there was a basic scale for graduate clerks etc. of Rs. 75-5-120-8-200. The respondent was appointed on the initial basic salary of Rs. 120/- per mensem. The dispute between the parties is that the respondent claims that his basic salary should be fixed under para 292(7) according to the supervisor's scale for the purposes of the proviso while the appellant claims that it can only be fixed at the highest on the scale for graduate clerks, and the appellant fixed the respondent's pay on that basis, and that led to the respondent's making the present application under s. 33-C(2) of the Act. The tribunal has found in favour of the respondent. The appellant therefore applied for special leave which was granted; and that is how the matter has come up before us.

The first question therefore that falls for decision is whether such an application can be made under s. 33-C(2) of the Act, Section 33-C(2) reads as follows :-

> "(2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may, made under this Act, be determined by such Labour Court as may be specified in this behalf by the

appropriate Government, and the amount as provided for in sub-section (1)."

It is contended on behalf of the appellant that s. 33-C(2) deals only with such cases where the workman is entitled to receive from the employer any benefit which is non-monetary but which could be computed in terms of money. It is said that it is only in such a case where the workman claims a non-monetary benefit from his employer that he can apply to the labour court for converting the value of this non-monetary benefit into money and computing the amount due in terms of money. On the other hand, it has been contended on behalf of the respondent that the benefit to which a workman may be entitled need not necessarily be non-monetary and that any benefit to which he is entitled under an award if it requires computation can be the subject-matter of an application under s. 33-C(2). Reliance has been placed on behalf of the respondent in this connection on a course of decisions by the industrial tribunals and the High Courts where the meaning of the word "benefit" in sub-s. (2) has not been confined to non-monetary benefits only.

The crucial words which we have to interpret are "any benefit which is capable of being computed in terms of money". The word "benefit" is of wide import, and the dictionary meaning thereof is wide import, and the dictionary meaning thereof is "advantage, profit". This would naturally include monetary advantage or monetary profit. There is no reason therefore for excluding monetary benefits, from the word "benefit" used in this sub-section, unless it is clear from the words used that monetary benefits were not intended to be included in the wide word "benefit" used therein. It is urged on behalf of the appellant that we should exclude monetary benefits from the meaning of this word in the context of this sub-section because the word is qualified by the words "which is capable of being computed in terms of money". This, it is urged, suggests that the meaning of the word "benefit" here excludes monetary benefits, for, according to the appellant, there would be no sense in computing monetary benefits in terms on money. But this contention overlooks the fact that the word used in the qualifying clause is "computed" and not "converted". If the word had been "converted" and the clause had read "which is capable of being converted in terms of money" there would have been a clear indication that the benefit which was to be converted in terms of money was other that monetary benefit. The dictionary meaning of the word "convert" is "to change by substituting an equivalent"; and if the word "convert" had been used in the qualifying words, the argument that the word "benefit" only means non-monetary benefit might be incontrovertible. But the word in the qualifying clause is "computed" and the word in the qualifying clause is "computed" and the dictionary meaning of the word "compute" is merely "to calculate". Therefore, where the benefit to which a workman may be entitled has not already been calculated, for example, in an award which confers on him the benefit, it stands to reason that sub-s. (2) would apply for computation of such benefit if there is dispute about it. Further, if we compare sub-s. (1) with sub-s. (2) of this section, it will appear that sub-s. (1) applied to cases where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chap. VA and that contemplates that the amount is already computed or calculated or at any rate there can be no dispute about the computation or calculation; while sub-s. (2) applies to cases where though the monetary benefit has been conferred on a workman under an award, it has not been calculated or computed in the award itself, and, there is dispute as to its calculation or computation. It cannot therefore be said looking to the words used in sub-s. (2) that it only applies to cases of non-monetary benefit which has to be converted in terms of money. It appears to us that it can also apply to monetary benefits to which a workman may be entitled which have not been calculated or computed, say, for example, in an award and about their calculation or computation there is dispute between the workman and the employer. It may be added that s. 33-C was put in the Act for the purposes of execution in 1956 after the Industrial Disputes (Appellate Tribunal) Act, (48 of 1950) was repealed in that year. The Appellate Tribunal Act contained s. 20 which provided for execution

of awards and was in terms almost similar to s. 33-C. When the appellate Tribunal Act was repealed in 1956 a provision similar to that contained in s. 20 was brought into the Act at the same time. It is clear therefore that s. 33-C is a provision in the nature of executing and where the amount to be executed is worked out (for example in an award) or where it may be worked out without any dispute, s. 33-C(1) will apply. But where the amount due to workman is not stated in the award itself and there is a dispute as to its calculation, sub-s. (2) will apply and the workman would be entitled to apply thereunder to have the amount computed provided he is entitled to a benefit, whether monetary or non-monetary which is capable of being computed in terms of money.

This matter had come up before Appellate Tribunal in 1955 in Glaxo Laboratories (India) Limited Bombay v. Shri A. Y. Manjrekar. [(1955) L.A.C. 505]. The appellate Tribunal took the view that s. 20 of the Appellate Tribunal Act was concerned purely with execution and there was no reason to hold that sub-s. (2) only applied to non-monetary benefits. The same view was taken by the Madras High Court in South Electricity Distribution Company Limited v. Elumalal [(1959) I.L.L.J. 624] by a learned Single Judge and again by the same High Court in M.S.N.S. Transports' Tiruchirapalli v. Rajaram (K) [(1960) I.L.L.J. 336] by a Division Bench. Looking therefore to the words of the sub-section and the previous decisions with respect to them we are of opinion that the word "benefit" used in sub-s. (2) is not confined merely to non-monetary benefit which could be converted in terms of money but is concerned with all kinds of benefits, whether monetary or non-monetary, to which a workman may be entitled, say, for example, under an award and that the sub-section comes into play when the benefits have to be computed or calculated and there is a dispute as to the calculation or computation. After the benefits have been so computed, the workman can apply under sub-s. (1) for recovery of the amount in the same manner as arrears of land-revenue. As in this case, the Sastry award had conferred a benefit on the respondent and those like him by providing for fixation of pay in the new scale, even though that benefit may be monetary and there was a dispute between the parties as to the amount of that benefit, it was open to the respondent to apply to the labour court for computation of that benefit in terms of money, and the labour court would have jurisdiction to entertain the application and compute the amount due on the basis of the benefit conferred by the award.

This brings us to the next question, namely, as to how the basic salary should be fixed. The main emphasis on behalf of the appellant in this connection is on the word "corresponding" appearing in cl. (7) of para. 292. It is urged that the Sastry tribunal fixed one sale for all clerks and as supervisors are clears the respondent could only be considered as belonging to the corresponding scale for clerks in the appellant-bank for the application of the proviso and thereafter he would be entitled to the special allowance of Rs. 50/- per mensem. On the other hand, the respondent contends that supervisors are workmen, as has been held in a dispute between this very bank and its supervisors, referred to an industrial tribunal which gave an award on April 4, 1957, (see the observations of this Court in the Punjab National Bank Ltd. v. Their Workmen), [C.A. 450 of 1959, Decided on December 9, 1960] and therefore all that was necessary to find out the corresponding scale was to see in what scale of workmen the respondent was at the relevant time. In this connection, we may incidentally add that it is not disputed by the appellant that its supervisors, accountants and accounts in-charge are generally workmen under the Act, though some may not be so. The difficulty, so far as the appellant is concerned, arose on account of the fact that the appellant had nine scale which applied to workmen of all kinds beginning with peons and chaukidars and ending with accountants and accounts in-charge. Three of these scales were for what may be called subordinate staff under the Sastry award while six were for what is clerical staff under the Sastry award. These six included the grade of supervisors. The appellant however contends that only four grades, namely (i) Assistant Cashiers. (ii) Head Cashiers, (iii) Undergraduate clerks, typists and Godown keepers, and (iv)

Graduate clerks, all stenographers in sanctioned stenographer's posts, should be treated as clerks for purposes of correspondence with the scale for clerks fixed by the Sastry award and the remaining two grades, namely, (i) Supervisors, and (ii) Accountants and Accounts in-charge, should not be treated as clerks for the purpose of correspondence. In view, however, of the decision of the industrial tribunal in the dispute between the appellant and some of its supervisors and accountants already referred to, it is obvious that these two grades for supervisors and accountants and accounts in-charge were also grades for workmen prevalent in the appellant-bank. What the Sastry award did was to make one grade for all clerical workmen and when cl. (7) speaks of correspondence it relates in our opinion to the corresponding grades of workmen by whatever name they may have been known in particular banks. The fact that certain clerical workmen in this bank were called clerks while certain others were called supervisors, accountants and accounts in-charge would not in our opinion make any difference to the question of correspondence, para 292 deals with workmen generally and not separately with clerical staff and subordinate staff. Further cl. (7) itself lays down that the workmen shall be fitted into the new scale of pay on a point-to-point basis and therefore when we have to find the corresponding scale for the purpose of the proviso in cl. (7) we have to look at the corresponding scale which relates to a workman at a time before the Sen award. Now if the supervisor's scale was the scale of a workman previous to the Sen award then it must be held to be a corresponding scale for the purpose of fixation so far a the respondent is concerned, irrespective of the name by which this class of workmen was designated in this particular bank. The proviso says that after adjustment the basic pay shall not be less than what it would be under a point-to-point adjustment on the corresponding pre-Sen scale. If therefore the supervisor's scale is a workman's scale it must be the corresponding pre-Sen scale so far as the respondent is concerned; consequently his basis pay cannot be fixed in the new scale prescribed by the Sastry award below what it would be on the corresponding pre-Sen scale. We have already pointed out that it has been already held between this very bank and its workmen that supervisor's are workmen and therefore the supervisor's scale in this bank was a workmen's scale; therefore when the fixation of pay has to be made under cl. (7) we have to find out the corresponding workmen's scale in there case of the respondent at a time before the Sen award was made and that in our opinion can only be the supervisor's scale, for supervisors have been held to be workmen between the parties to the present dispute. The fact that the Sastry award provided for a special pay for certain employees including supervisors has not relevance on the question of correspondence which has to be worked out under cl. (7) in order to find out the basic pay for purposes of fixation. In view of what we have said the supervisor's scale being a scale for workmen in this bank, the respondent is right in this claim that his basic pay cannot be reduced below what it would be under a point-to-point adjustment on the corresponding scale which he was drawing before the Sen award, in this bank as a workman. In this view of the matter the view taken by the labour court is correct. Once the principle is fixed, there is no dispute as the amount due to the respondent.

The appeal therefore fails and is hereby dismissed with costs.

Appeal dismissed.

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