

Eastern Bank, Limited

v.

Shivdas Vishnu Naik and Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE P. B. GAJENDRAGADKAR HON'BLE MR.
JUSTICE K.N.WANCHOO HON'BLE MR. JUSTICE K. C. DAS GUPTA

Civil Appeal No. 212-219 Of 1963 | 19-04-1963

Gajendragadkar, J.

1. These appeals have been brought to this Court by special leave by the appellant, the Eastern Bank, Ltd., in which the appellant seeks to challenge the correctness of the order passed by the Central Government Labour Court purporting to exercise its jurisdiction under S.33C(2) of the Industrial Disputes Act, 1947 (14 of 1947). The eight respondents had claimed a special allowance under Para. 164(b)(1) of the Sastri award on the ground that besides attending to their routine duties as clerks, they had been operating the adding-machine from time to time, and so, were entitled to the said special allowance. The appellant raised certain preliminary objections and resisted the claims made by the respondents on the merits. The preliminary objections need not be considered in these appeals, because in Civil Appeals Nos. 823-826 of 1962 we have elaborately dealt with them and have rejected them. That leaves the merits to be considered in the present appeals.

2. It is common ground that the respondents do their routine work of clerks and in the course of discharging their duties in that behalf, they operate the adding-machine for the purpose of making additions mechanically. The appellant contended before the labour court that adding-machine operators could not be regarded as comptists. The labour court, however, took the view that since adding-machine operators and addressographers had been shown by the Imperial Bank of India as the equivalents of comptists in the statement filed by the said bank before the Labour Appellate Tribunal, the appellant was not entitled to contend that a bank employee who operates an adding-machine is not a comptist. It is on this ground that the respondents' claim has been allowed. We have already held that this ground is unsound and the conclusion based on it

cannot be affirmed. In the present appeals, however, evidence has been led by the parties and so, it is not necessary to remand the cases to the labour court. We, therefore, propose to deal with the merits of the claim made by the respondents in the light of the evidence led before the labour court. Mr. Bettlesale, the staff officer of the appellant, made an affidavit that the respondents had not worked for more than four hours in a month on the adding-machine, and he added that the said work could be completed either on one day or may be spread over up to four days. In fact, according to him, the adding-machines are provided in order to aid the respondents in their work and the operation of the said machine does not call for any additional skill or higher responsibility. In this cross-examination, the witness stated that the adding-machines at the commencement were utilized at the request of the employees. He admitted that the appellant paid special allowance for work on accounting machines, because the said work requires special skill and efficiency, but since operating the adding-machine and that too for a very short time, involves no special skill or efficiency, the respondents could not be treated as comptists.

3. On behalf of the respondents Mr. Naik gave evidence. He referred to his duties as a routine clerk and he added that he was directed to use the adding-machine for the purposes of balancing by his officer-in-charge.

4. According to him, his work on the adding-machine would average out to not less than seven days in a month, though he admitted that it was not possible to accurately establish the extent of the work done by the respective clerks on the adding-machine. Mr. Savor who also gave evidence for the respondents stated that there are about eight persons in the current account dependent who used the adding-machine from time to time. Besides, the eight respondents also claimed to use the said machine and there are only two adding machines in the office. Thus, it would be seen that each one of the respondents who claimed the special allowance is shown to be operating the adding machine for four hours in a month and that to as an item of work incidental to the discharge of his main duties as a routine clerk. It would indeed be strange if the eight respondents as well as the eight clerks in the accounting department could claim special allowance on the ground that they operate the two adding-machines in the office by turn; that obviously was not intended by the Sastri award when it prescribed the special allowance to comptists in Para. 164(b)(1). Therefore, on the evidence as it stands, we have no difficulty in holding that the respondents are not comptists under Para. 164(b)(1) of the Sastri award. They are not described

as such, and the nature of the work, the responsibility attending to the work and the skill required of them for discharging the said work do not justify their claim to be comptists for the purpose of special allowance. The result is, the appeals are allowed, the orders passed by the labour court are reversed and the respondents' claim made under S.33C(2) of the Industrial Disputes Act, 1947, are dismissed. We make no order as to costs.