Reserve Bank of India and Another

Vs

Ramkrishna Govind Morey

Civil Appeal No. 2042 of 1974

(Y.V. Chandrachud, V.R. Krishna Iyer, A.C. Gupta JJ)

20.01.1976

JUDGMENT

GUPTA, J. -

1. The respondent was employed as a clerk grade II in the Notes Cancellation Section at the Nagpur branch of the appellant Reserve Bank of India. On October 25, 1952 the Reserve Bank India terminated his service with effect from October 27, 1952 acting under Regulation 25(2)(b) of the Reserve Bank of India (Staff) Regulations, 1948. On October 27, 1955 the respondent instituted a suit in the Court of the Civil Judge, Nagpur, alleging that the termination of his service without giving him a hearing was illegal and praying for a declaration that he continued to be an employee of the Reserve Bank and for a decree for arrears of salary. On February 5, 1985 the trial Court allowed an application of the defendant Reserve Bank of India for amendment of the written statement by deleting a paragraph thereof. On March 3 and 18, 1958 the respondent made two successive applications for amendment of the plaint. The trial Court rejected both these applications on March 18, 1958. The respondent moved the High Court at Bombay, Nagpur Bench, in revision against the order rejecting his applications for amendment; a learned Judge of the High Court by his order dated July 4, 1958 summarily rejected the revision petition. Thereafter the suit was heard and dismissed with costs on January 23, 1960. The trial Court held that respondent was governed by the Reserve Bank of India (Staff) Regulations, 1948 and that the order terminating his service was legal and valid. The appeal taken by the respondent against the decision of the trial Court was also dismissed by the District Judge at Nagpur on February 10, 1964. The respondent preferred a second appeal and the High Court in the second appeal took the view that the applications for amendment of the plaint had been rejected without due consideration, and remanded the case to the trial Court directing the latter to consider afresh the amendment applications made on March 3 and 18, 1958 and also to dispose of another application for amendment of the plaint respondent had filed in the High Court. The appeal before us is brought on special leave by the Reserve Bank of India questioning the correctness of the order of remand made by the High Court.

2. From the tenor of the High Court's judgment it seems that the leaned Judge thought that the trial Court should not have allowed the written statement to be amended; according to the learned Judge the paragraph of the written statement deleted by way of amendment lent support to the plaintiff's case. But the plaintiff did not move against the order allowing amendment of the written statement which had become final, and the trial Court on an "examination of the whole of the pleadings and documents on record" found that the proposed amendment of the plaint besides being "highly prolix" was unnecessary. The lower appellate Court also agreed with this finding. The High Court appears to have felt that the defendant's prayer for amendment having been allowed, the plaintiff's applications should not have been refused and observed that the amendments sought for by the

plaintiff might be "necessary from the point of view of the plaintiff" and that the lower courts ought to have tested "the amendment applications of the plaintiff on that ground". The High Court however did not try to find out if the proposed amendments were really necessary for the plaintiff's case. If the applications for amendments made by the plaintiff contained allegations in line with what was stated in the original plaint, the amendment would be redundant; if they were different, no valid reason is given by why the plaintiff should be permitted to improve on the case as originally made. The plaintiff's case did not depend on what the defendant might say in the written statement and if what he proposed to introduce in the plaint by way of amendment was relevant to his case, there is no apparent reason why this was left out when the plaint was filed. Prima facie, therefore, the order of the trial Court rejecting the plaintiff's applications for amendment of the plaint was not arbitrary. Whether the trial Court should not have exercised its discretion differently is not a question of law justifying interference by the High Court in second appeal. The learned Judge of the High Court also failed to consider the fact that a revisional application from the order refusing amendment had earlier been dismissed by the High Court. For these reasons we hold that the High Court had no jurisdiction in second appeal to interfere with the order passed by the trial Court in its discretion which was affirmed by the lower appellate Court. As for the application for amendment that the respondent had filed in High Court about 19 years after the institution of the suit, there is no compelling reason why this belated application should be allowed. We find that the High Court did not go into the merits of the appeal which remain to be considered. Accordingly, we allow this appeal, set aside the judgment of the High Court remanding the case of the trial Court for reconsideration of the amendment applications, and remit the matter to the High Court for disposal of the second appeal on merits. Except as directed by the order by the order passed on December 19, 1975 there will be no order as to cost.

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