

General Manager (Operations) State Bank of India

Vs

State Bank of India Staff Union

(Sujata V. Manohar, D. P. Wadhwa JJ)

20.03.1998

JUDGMENT

MRS. SUJATA V. MANOHAR J

1. The appellants, representing the State Bank of India have challenged a decision of the Andhra Pradesh High Court setting aside a Circular issued by the State Bank of India dated 28.1.1987 as also a Circular in the same terms dated 7.3.1987, as violating Section 9-A of the Industrial Disputes Act, 1947 read with the Fourth Schedule. The respondents to the present appeal are the State Bank of India Staff Union, Hyderabad Circle and the second respondent who is a person aggrieved by the Circulars.

2. The Rules of Conduct of the Award Staff of the State Bank of India which were in force at all material times, provide, inter alia, that "an employee of the bank may not take active part in politics or in any political demonstration, nor may an employee accept office on a Municipal Council or other public body without the prior sanction of the bank". In respect of officers of the appellant-Bank, prior to 28th of January, 1987, under the State Bank of India Supervising Staff Service Rules, an officer who wanted to contest an election to Parliament, State Assemblies, Municipal Council etc. had to resign from the bank's service before doing so. In the case of the Award staff, however, permission to contest such an election could be considered by the General Manager on certain conditions and on the employee giving an undertaking that he was not and he would not become a member of a political party, that he was not being nominated by a political party and that he would not be required to be present in the Council/Body during office hours. He also would not receive any remuneration and would not plead his membership of such a body as a bar to his transfer. If he violated any condition of his undertaking, it would be open to the bank to call upon him not to continue in his office in the above mentioned public or civic body.

3. According to the appellants-bank, case came to their notice where employees who had been elected to public/civic office had not been performing their normal day's work, causing inconvenience to the bank and its customers. There were also some cases of employees indulging in restrictive practices or favoring certain political parties for obtaining benefits from the appellant-bank. The appellant-bank, therefore, issued a Circular on 28.1.1987 to the effect that the local head offices will, in future while considering the request of an Award employee to seek election to any public/civic body, first thoroughly examine whether his contesting the election will interfere or would be likely to interfere with his duties in the bank. The local Head Offices were also directed to obtain an undertaking from the employee indicating that (1) his contesting election will not interfere with his duties in the bank and he will not take any undue advantage of his position in the bank and (2) in case he gets elected, he will immediately resign from the bank's service, failing which he will

be liable to be discharged or the bank would be free to treat his letter seeking permission as a letter of resignation from the day he is declared elected. The Circular of 7.3.1987 gives a capsule of previous instructions and repeats the Circular of 28.1.1987.

4. The second respondent, who was a Clerk in the appellant-bank, Hyderabad Circle, on 18.2.1987 sought permission of the appellant-bank for contesting elections to the Municipal Council of Repalle. Although he did not receive permission, he filed his nomination. He was thereafter informed by the bank on 5.3.1987 that his application for permission to contest the election could not be granted unless he gave an undertaking that he would resign from the bank's service on his getting elected. Thereupon the respondents filed a writ petition before the Andhra Pradesh High Court challenging the two circulars of 28.1.1987 and 7.3.1987. The High Court held that these two Circulars amount to a change in the conditions of service of workmen and are violative of Section 9-A of the Industrial Disputes Act, 1947.

5. We fail to see how these Circulars can be said to violate Section 9-A of the Industrial Disputes Act, 1947. Under Section 9-A no employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change without notice as prescribed in that section. Schedule Four sets out the conditions of service for change of which notice is required to be given under Section 9-A. The conditions of services prescribed in the Fourth Schedule include, inter alia, wages, contribution to any provident fund or pension fund, compensatory and other allowances, hours of work, leave etc. Condition 8 is : "Withdrawal of any customary concession or privilege or change in usage". These customary concessions or privileges clearly relate to conditions of service or work. Participating in an election to a Municipal Council or local body is not a customary privilege connected with conditions of service or work. The Circulars of 28.1.1987 and 7.3.1987, therefore, do not bring about any change in the conditions of service of a workman. The Rules of Conduct of the Award staff have always included a Rule to the effect that the employee of the bank may not accept office on Municipal Council or other public body without prior sanction of the bank. The Circulars, therefore, do not bring about any change in this policy. The appellants have explained that the appellant-bank is a public sector undertaking set up for carrying out a public that the employees carry out their functions without being influenced in any manner and their behavior does not give rise to any talk of favoritism in granting loans, credit facilities or other facilities of the bank. When a person contests elections to a municipal or public body he naturally seeks support from political parties or various other persons in his constituency. Without their support it is not possible for a person to get elected. In turn, the elected person will be under an obligation to those persons who are responsible for his election. Such an elected person, if he is an employee of a public sector bank which deals with sanction of loans, advances, overdrafts etc., may be in a position to use his influence with officers regarding granting of these facilities. In order, therefore, that the functioning of the bank is free from political influences and favoritism, and in order to ensure that the employees attend to their duties during office hours, the Circulars have been issued.

6. The same Circulars were challenged before the Delhi High Court by an employee of the appellant-bank at Saharanpur branch in Uttar Pradesh. The petitioner before the Delhi High Court also desired to contest elections to the local Municipal Council. The Delhi High Court upheld the decision of the management that the petitioner's continuance as Municipal Councilor does affect his work in the bank and that there was no question of any violation of Article 19(1) (a), (b) and (c) of the Constitution. This decision of the Delhi High Court was upheld by this court by a Bench of three Judges by its short speaking order dated 5.4.1991 dismissing the special leave petition from the judgment of the Delhi High Court.

7. Before the Delhi High Court the provisions of the Industrial Disputes Act, 1947 were not invoked in respect of these Circulars, as has been done in the present case. There is, however, no merit in the challenge to these Circular under Section 9-A of the Industrial Disputes Act, 1947 for reasons which we have set out above.

8. The appeal is, therefore, allowed and the impugned judgment and order of the Andhra Pradesh High Court is set aside. There will, however be no order as to costs.