

SUPREME COURT OF INDIA

Bank of India

Vs.

Presiding Officer

(S. R. Babu and S.N. Variava JJ.)

29.11.2000

JUDGMENT

1. This appeal is by special leave. The respondent No. 3 is employed as a clerk in the Regional Collection center, Kanpur.

2. He filed an application under Section 33C(2) of the Industrial Disputes Act for computation of Special Assistance Allowance @ Rs. 456/- on the basis of the 2/3 rd months rotation in a year for the years 1983, 1984, 1985 and 1986. The appellant-bank opposed the said application. The Labour Court computed the amount payable to respondent No.3 at Rs. 5,016/-. The order made by the Labour Court was challenged by way of a writ petition before the High Court. In the High Court the contention put forth on behalf of the appellant that the conditions of service of workmen arc governed by the Sastri Award or Desai Award. However, the High Court rejected this contention that this Award has ceased to apply in the year 1966, in view of the decision of this Court in Central Bank of India v. Sisir Kumar Shaw . Hence this appeal by special leave.

3. At the time when this matter was considered at the preliminary stage, the appellant was directed to pay the amount awarded by the Labour Court irrespective of the result of this matter. In view of that order it is not necessary to upset the order made by the Labour Court even if we agree with the contention advanced on behalf of the appellant.

4. Shri G.B. Pai, learned Senior Advocate appearing on behalf of the appellant submitted that in Central Bank of India's case (supra) this Court made an observation which is as follows:

In order to understand the point implied in this case it is not necessary to refer to the details of the Sastri Award of 1953 or the Desai Award which ceased to apply in the year 1966

5. In that decision except to make as statement of fact the question whether these two Awards were in force or not was not in issue at all and, therefore, no question of any pronouncement on this point is necessary. This aspect of the matter has been examined in detail in the case of South Indian Bank Ltd. v. A.R. Chako . The effect of the various provisions of the Industrial Disputes Act in relation to the period for which the settlement or Award will be in force and the effect of the Industrial Disputes Act (Banking Companies) Decision Act, 1955 has been considered. This Court took the view that under provisions of Section 19(6) of the Industrial Disputes Act an award shall continue to be binding on parties even after the period stated under Section 19(3) expires and Section 4 of the

Industrial Disputes (Banking Companies) Decision Act, 1955 will not attract the same. It is observed that if an award does not cease to be in force or has ceased to be binding on the parties in view of the provisions of Section 19(6) of the Industrial Disputes Act until the parties intimate to each other about their intention to do so. It has been brought to our notice that Bipartite Settlement in fact refers to this aspect. It is brought to our notice that in Chapter 1 a Clause 1 in preamble itself indicates the manner in which Desai or Sastri Award is dealt with:

1.1 The Parties are agreed that the provisions of the Award of the All-India Industrial Tribunal presided over by Shri P. Sastry as finally modified and enacted by the Industrial Disputes (Banking Companies) Decision Act, 1955, the Industrial Disputes (Banking Companies) Decision Amendment Act, 1957 and provisions of the Award of the National Industrial Tribunal presided over by Mr. Justice K.T. Desai in Reference No. 1 of 1960 which Award inter-alia modifies certain provisions of the Sastry Award, shall govern the service conditions therein covered except to the extent that the same have been modified in this Settlement.

6. In this view of the matter, we do not think the High Court was justified in taking the view that the said Desai Award has ceased to apply in the year 1966. However, it is not necessary to upset the order made by the Labour Court as affirmed by the High Court except to make the clarification on the question of law.

7. The appeal stands disposed of in the above terms.