

CASE NO.:
Appeal (civil) 1030 of 2001

PETITIONER:
REGIONAL MANAGER, BANK OF RAJASTHAN LTD.

Vs.

RESPONDENT :
REGIONAL LABOUR COMMNR. & ORS.

DATE OF JUDGMENT: 05/02/2001

BENCH:
D.P. Mohapatra & Shivaraj V. Patil.

JUDGMENT :

D.P.MOHAPATRA, J.

Leave granted.

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The controversy raised in this appeal relates to the question whether certain part-time sweepers serving under the Bank of Rajasthan Limited, appellant herein, are entitled to scale of wages or only fixed wages . From the materials available on record it is clear that according to the settlement arrived at between the management of the Bank and the Union representing the workmen those part-time sweepers who were working for more than six hours in a week were entitled to the benefit of scale of wages and the sweepers rendering service for less than six hours in a week were to receive fixed wages.

On a dispute raised by the General Secretary of the Bank Workers Union Respondent No.4, the Central Government referred the following dispute to the Industrial Tribunal for adjudication :

Whether the action of Zonal Manager, Bank of Rajasthan Limited, Zonal Office, New Delhi, in not giving the salary to all the nine employees named below, employed in 8 different branches of the bank as part time sweepers is legal and valid ? If not, to what relief the workmen are entitled to ?

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| 1.Smt.Khajani Devi | 2. Smt.Ramo Devi |
| 3. Smt.Saroj | 4. Smt. Dhanpati |
| 5. Sh.Jai Bhagwan | 6.Smt.Kamlesh Devi |
| 7.Smt.Vinod | 8 Smt. Sumitra Devi. |
| 9. Smt. Chander Kala | |

The Industrial Tribunal disposed of the case, I.D.No.38/91 by the Award dated 26th December, 1994, on the@@

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following terms :@@

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Both the parties had agreed for inspection of the site in order to ascertain the number of working hour. On the basis of the inspection report the Chart Ex.M-1 was filed by the management and the workmen union accepted the Chart Ex.M-1 and stated that the claim for rest of the money be dismissed. The Management Representative also agreed to this. In view of this situation it is ordered that the payment according to the Chart Ex.M-1 be made to the workmen and, their claim for rest of the amount/points is dismissed. Parties shall bear their own costs of the dispute.

Feeling aggrieved by the Award the appellant filed C.W. No.2235/98 and C.M.No.3635/98 before the Delhi High Court which were disposed of by the single Judge by the Order dated 2.9.1999, confirming the Award with a modification regarding the award of interest. The operative portion of the Order reads:

In view of the above, the impugned award does not call for any interference/judicial review as far as merits of the award is concerned under Article 226 of the Constitution of India except to the extent of the grant of 12% interest. In view of the above, the impugned award is set aside/modified to the extent of the grant of 12% interest. Rest of the award does not call for any judicial review. The petitioner shall comply with the modified award as above within eight weeks from today."

Against the said order of the single Judge the appellant filed an appeal, L.P.A.No.483/1999 which was dismissed by@@ JJ the Division Bench by Judgement/Order dated 4.11.1999@@ JJJJJJJJJJJJJJJJJJJ holding inter alia that from the papers on record it was clear that the respondents were putting in work for more than one hour per day, and therefore, they were rightly given the benefit by the Central Government Industrial Tribunal. The present appeal filed by the Bank is directed against the said Judgment/Order.

In the Order dated 9.5.2000 this Court while issuing notice confined the question to be examined to whether the@@
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Tribunal was justified in awarding back wages in favour of@@
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the workmen Mrs. Dhanpati Devi and Jai Bhagwan from the date of their respective appointments.

It was not disputed before us that the controversy raised in the present proceeding is confined only to the aforementioned two workmen. The question is whether they are entitled to back wages from the respective dates of their appointments or from any other subsequent date. From the facts noted in the preceding paragraphs it is clear that the dispute regarding the claim of scale wages was decided by the Industrial Tribunal by the Award passed on 26th December, 1994. The Award was passed on determination of the question whether these workmen were rendering service for more than six hours in a week. On the materials placed before it the Tribunal accepted the case of the Union that the workmen concerned were infact rendering service for more than six hours a week and rejected the case of the management to the contrary.

In the facts and circumstances of the case discussed in the preceding paragraphs it is our view that the calculation of the back wages on the basis of the entitlement as held in the award should be made from the date of the award i.e. 26th December, 1994. The Award passed by the Central Government Industrial Tribunal as confirmed by the High Court stands modified to this extent only. The appeal is disposed of on the above terms. No cost.

JUDIS