

CASE NO.:
Transfer Case (civil) 403 of 1999

PETITIONER:
A.I. REG. RURAL BANK OFFICERS FED. & ORS.

Vs.

RESPONDENT:
GOVT. OF INDIA & ORS.

DATE OF JUDGMENT: 07/03/2002

BENCH:
G.B. Pattanaik, S.N. Phukan & S.N. Variava

JUDGMENT:

WITHIA No. 3 in Civil Appeal No. 2219/1999.
Contempt Petition [c] No. 162/2001 in C.A. No. 2218/1999.
Contempt Petition [c] No. 222/2001 in C.A. No. 2218/1999.
Contempt Petition [c] No. 220/2001 in W.P.[c] No. 516/2000.

JUDGMENT

PATTANAIAK, J.

These Interlocutory Applications and Contempt Petitions are all off shoots of the Judgment of this Court dated 31.1.2001 in Civil Appeal No. 2218 of 1999 and the subsequent circular issued by the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) in implementation of the directions of this Court. According to the applicants, the circular issued by the Government of India in the Ministry of Finance (Banking Division), purported to be one in compliance with the directions of the Court in Judgment dated 31.1.2001 in effect, is contrary to the Judgment of the Court and is a willful disrespect to and in deliberate violation of the judgment and directions of the Court and as such, must be held to be grossly contemptuous and the contemnors should be duly punished for the same.

The main controversy in the Civil Appeal was, whether on acceptance of any bipartite settlement between the management and the employees of the sponsor bank, the employees and officers of the Regional Rural Banks ipso facto would be entitled to the revision of their wages? While the management and the Union of India vehemently contended that there cannot be an ipso facto revision of wages of the employees of the Regional Rural Banks as and when a settlement is arrived at between the management and employees of the sponsor bank and the appropriate authority of the Central Government would be required to exercise power under Section 17 of the Regional Rural Banks Act, 1976, the employees on the other hand, strongly relied upon the Report of Justice Obul Reddi Tribunal and submitted that in view of the conclusion of the tribunal that parity should be maintained between the employees of the

Regional Rural Banks as well as the employees of the sponsor nationalised commercial banks, the so-called decision making power under Section 17(1) of the Act, is in fact a formal and clerical one. Ultimately, this Court accepted the contention of the Union Government as well as the Management of the Bank and came to hold that it would be the power of the Central Government to decide the pay structure of the employees of the Regional Rural Banks under Section 17(1) of the Act and in so doing, the Government would be duty bound to maintain parity between the pay structure of the employees of the nationalised commercial banks and the employees of the Regional Rural Banks in the same sense and spirit as Justice Obul Reddi had decided. This Court ultimately issued this further direction as under:

"In view of the aforesaid conclusions of ours on the different contentions raised and in view of the fact that the Union of India in its Interlocutory Application had already indicated that the employees of the RRBs will be granted the new scales w.e.f. 1.4.2000 in the line with scales granted to commercial bank employees of equivalent level, we direct that the said determination be a determination under the second proviso to sub-section (1) of Section 17 of the RRB Act and as such the salary of the employees of the Regional Rural Banks w.e.f. 1.4.2000 be determined accordingly. We also further direct that for maintaining the parity between the employees of the commercial banks and the employees of the Regional Rural Banks, the said Union Government shall decide the question as to what would be the salary of the employees of the RRBs subsequent to the 6th Bipartite Settlement having been given effect to, in case of employees of the commercial banks and with effect from what date and the benefit flowing from such decision be given to the RRB employees. The decision in question shall be taken within a period of six months from today."

It may be stated that the Union of India had filed an interlocutory application, wherein in the larger interest of the employees and depositors of the Regional Rural Banks, it had proposed to give a package, but that package however had not been accepted by the employees of the Regional Rural Banks and, therefore, the Court ultimately heard the matter and delivered the judgment. In implementation of the directions of the Court as aforesaid, the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) issued a notification dated 11.4.2001, the relevant paragraphs of which are quoted herein-below in extenso:

"(i) The new basic pay of each RRB employees as on 1.4.2000 would be determined by notionally granting the benefit of 6th and 7th bipartite settlement and officers wage revision w.e.f. 1.11.1992 and 1.11.1997 respectively. The formula for fitment of salary in various scales may also remain the same as was adopted for commercial bank employees. Thus as on 1.4.2000, the pay scales of the RRB employees would become equal to that of their counterparts

in commercial banks.

(ii) The current payment of increase in the salary due to grant of new pay scales shall be made in such a manner that the cash outflow in a particular year on this account is not more than 50% of the operating profit of the concerned RRB as per the previous year's published balance sheet. The RRBs who have incurred operating losses in the previous year would not be able to make current payment of increased portion of the revised salary and the amount due on account of increase in salary shall be transferred to the arrear account. Similarly, if anticipated cash out flow on account of the increase in the salary is exceeding 50% of the operating profit in the last year, the current payment may be restricted only to 50% of the operating profit and the rest shall be transferred to arrear account which is to be treated in the manner stated hereunder.

(iii) There shall be a two year moratorium on the payment of arrears i.e. upto 31.3.2002 and during this period no arrear shall be payable by any RRB. After the moratorium period, the arrears may be paid in such a manner that the cash outflow on that account and the increase in wages during the current year on account of implementation of this package do not exceed 50% of the operating profit of the respective RRB for the immediate previous year. Arrears would mean increase in salary i.e. basic pay, DA and CCA due to the RRB employees by notionally granting to them wage revision w.e.f. 1.11.1992 and 1.11.1997 at par with the commercial bank employees and residual amount if any arising out of clause (ii) above.

(iv) The House Rent Allowance (HRA) and City Compensatory Allowance (CCA) would be payable at the same rate as applicable to comparable employees in the sponsor banks and would be given prospective effect i.e. date of issue of these orders as is done in Commercial Banks.

(v) As far as other allowances are concerned, individual sponsor banks shall negotiate the same with the respective RRBs. The revised allowances shall be paid w.e.f. 1.4.2000. The ceiling on the payment shall however be as per the formula stated in (iii) above.

The RRBs may issue a comprehensive order based on the above orders indicating the revised pay scales in respect of each category of employees after getting approval of their Board of Directors.

The principles for current payment and payment of arrears spelt out in these orders should be strictly adhered to."

Paragraph (i) of this Notification, making the pay-scales of the employees of Regional Rural Banks equal to their counterparts in commercial banks on 1.4.2000 is in consonance with the directions of this Court and there is no grievance on that score from any quarter. But paragraphs (ii)

and (iii) of the aforesaid circular are the identical paragraphs of the package, which the Union of India had submitted in course of hearing and which had not been accepted by the employees of the Regional Rural Banks. Even the current payment of increase in salary, after determination being made became dependant upon the cash outflow in a particular year and then there was a moratorium on the payment of the arrears for a period of two years i.e. upto 31.3.2002. The aforesaid period however is coming to an end.

According to Mr. S.K. Dholakia and other counsel appearing for different set of employees of Regional Rural Banks, the direction not to make the current payment of the increase in salary due to the grant of the new pay-scale is directly in contravention of the judgment of this Court and, therefore, such attitude of the authorities, must be severely condemned and they should be duly punished.

Mr. Mukul Rohtagi, the learned Additional Solicitor General, however tried to impress upon us the circumstances under which the notification had been issued, the same being severe financial crisis and the learned Additional Solicitor General further urged that the monetary benefits of the employees of the bank will have to be so modulated so that the banks should not ultimately be closed down by merely paying the salary of the employees. Even though the financial position of the banks may not be disputed, but having regard to the directions issued by this Court, while disposing of the civil appeal and having regard to the circumstances under which such directions had been given, it would be difficult for us to sustain the plea of the Union Government that the Notification is in compliance with the judgment and directions of this Court. The financial capacity of the Government cannot be pleaded as a ground for non-implementation of the directions of the Court inasmuch as even in the matter of determination of the pay-scale of the employees of the Regional Rural Banks and maintenance of parity with their counterparts, serving under the sponsorer commercial banks, Justice Obul Reddi had not accepted the said plea and that award reached its finality. Since the financial capacity of the employer cannot be held to be a germane consideration for determination of the wage structure of the employees and the Parliament enacted the Act for bringing into existence these regional rural banks with the idea of helping the rural mass of the country, the employees of such rural banks cannot suffer on account of financial incapacity of the employer. We have no hesitation in coming to the conclusion that the issuance of notification dated 1.4.2001, by the Government of India cannot be held to be in compliance with the judgment and directions of this Court in Civil Appeal No. 2218 of 1999. But at the same time, we are of the opinion that the appropriate authority need not be punished under the provisions of the Contempt of Courts Act, even if the notification is in direct contravention of the judgment of this Court, as we do not find a case of deliberate violation. While, therefore, we do not propose to take any action against the alleged contemnors, we direct that the employees of the Regional Rural Banks should be paid their current salaries on the basis of determination made under the notification dated 11.4.2001, the new basic pay having arrived at, as on 1.4.2000 forthwith. Paragraph (i) of the aforesaid notification dated 11.4.2001 should be immediately implemented and the employees should be paid accordingly. Paragraphs (ii) and (iii) of the notification are quashed and

the Central Government is directed to issue a fresh notification for proper implementation of the Judgment of this Court. We make it clear that the period of moratorium with regard to the payment of arrears, since is going to be over on 31.3.2002, the arrear salary accruing to the employees be paid to them in three equal annual installments, the first being on 30th of April, 2002, the second on 30th of April, 2003 and the third on 30th April, 2004. This payment has to be made as aforesaid without being any way dependant upon any other considerations and there cannot be any distinction between the regional rural banks incurring loss and the regional rural banks, making profit. Further, the question of anticipated cash out-flow on account of increase in salary if exceeds 50% of the operating profit, then the current payment would be restricted only upto 50% is absolutely of no relevance, which was indicated in the impugned notification dated 11.4.2001. Having regard to the financial condition of the Government as well as these banks, the installment to be paid on 30.4.2002, pursuant to this order of ours, the same may be deposited in the employees' provident fund account. But all other installments will have to be paid in cash.

All these Interlocutory Applications and Contempt Petitions are disposed of accordingly.

.....J.

(G.B. PATTANAIK)

.J.

(S.N. PHUKAN)

.J.

(S.N. VARIAVA)

March 07, 2002