

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6578 OF 2002

Andhra Bank thro Reg. Manager, VisakhaAppellant

Versus

I.T.- cum- Labour Court & Anr.Respondents

JUDGMENT

HARJIT SINGH BEDI, J.

1. This appeal by special leave arises out of the following facts.

2. The Central Government vide its order dated 1st July, 1971 declared Vishakhapatnam as a Group "A" city. As a consequence of the aforesaid declaration, the staff of the appellant bank claimed certain additional benefits such as house accommodation, house rent allowance etc. While some

of the other nationalized banks extended the benefits to their employees, the Andhra Bank declined to do so on the plea, inter alia, that it was running into huge losses and was unable to meet the additional burden. These differences led to protracted conciliation proceedings before the Assistant Labour Commissioner, Vishakhapatnam, but no concrete solution was arrived at. The Central Government thereupon referred the dispute to the Industrial Tribunal for adjudication. The respondent management i.e. present appellant filed a written statement before the Industrial Tribunal questioning the jurisdiction of the Tribunal to entertain the reference and further clarifying that on account of several awards such as the Shastri Award, the Desai Award and several bipartite settlements arrived at between the Bank and its employees from time to time, there was no obligation on the bank to give the benefits arising out of the declaration dated 1st July, 1971. The Industrial Tribunal held that there were two points for consideration:

1. Whether the Tribunal had the jurisdiction to entertain the reference? and;

2. Whether the management of Andhra Bank was justified in denying the enhanced rate of House Rent Allowance applicable to project area to its award staff?

3. The Tribunal held that as per the legal position the Industrial Tribunal was competent to entertain the reference. On point No.2 the Court observed that the Andhra Bank was paying house rent to different categories of employees with a ceiling of Rs. 400/- to Rs. 550/- and as the attempts at conciliation had failed on account of the dilatory tactics on the part of the Bank, the employees had absolutely no remedy but to approach the Tribunal for the redressal of their claim. The Tribunal in conclusion observed as under:

"It can be taken judicial notice that the State Government is paying 20% HRA to the employees subject to a maximum of Rs.1000/- When other banks are paying money towards house rent allowance where quarters are not provided the denial of house rent allowance at the enhanced rent by Andhra Bank to project Area Group "A" cannot be said justified in the circumstances stated above. As seen

from the annexure, the Union Bank of India of Vishakhapatnam has opted to pay or make housing accommodation to the award staff at Vishakhapatnam w.e.f. 24.06.92. In the said circumstances, I am of the opinion that the award staff of Andhra Bank i.e. (Clerical, Sub-Staff) would be entitled to house rent allowance at 20% of the basic pay as is provided in the case of the State Government employees in Group "A" project area like Vishakhapatnam. The reference was registered as L.D., in the month of August, 1992. In the said circumstances, the petitioner, Andhra Bank Award Staff Employees' Union's claim is justifiable. The denial of enhanced rate of house rent allowance applicable to project area 'A' to its award staff by the management of Andhra Bank is not justifiable. The point is answered accordingly.

In the result an award is passed in favour of the petitioner, Andhra Bank Award Staff Union and against the respondent management situated at Vishakhapatnam, Hyderabad, Head Office (I) directed to consider payment of 20% of HRA to project area of Group 'A' at Vishakhapatnam on par with Government employees subject to a maximum of Rs. 1000/- however if housing accommodation is provided by the Andhra Bank, 10% of the basic pay shall be deducted for the concerned individual and the HRA calculated at 20% shall be surrendered by the concerned employee, I(a) or as is paid by

the other bank's employee referred in the annexure of the claim statement, (II) it shall be effected from December, 1992 and (III) the award shall be implemented by the management of Andhra Bank within a month after receipt of the award by the management".

4. The award of the Tribunal was challenged by the Andhra Bank by way of a Writ Petition in the Andhra Pradesh High Court. The High Court in its judgment dated 13th April, 1998 first noted the facts of the case and observed that the reference made to the Tribunal (i.e. on point No.1) was justified and in order and on point No.2 which was the material question observed as under:

"Regarding point No.2, the Tribunal took into consideration, the population of the Vishakhapatnam City, facilities available, particularly availability of residential accommodation, the status of "Award Staff", facilities given to the staff of the type in other Banks and held that the denial of House Rent Allowance, as incorrect and unjust.

The order of the Tribunal is a well considered one and there is no illegality or irregularity in the impugned order. Hence, the writ petition is liable to be dismissed".

5. Aggrieved by the award of the Industrial Tribunal and the judgment of the High Court, the Andhra Bank is before us in appeal.

6. Mr. Reddy, the learned Senior Counsel for the appellant has very fairly submitted that the conclusion drawn by the Tribunal and the High Court on point No.1 were not being challenged in this Court but the findings on point No.2 were clearly wrong inasmuch as that despite the plea of the Bank that the declaration of 1st July, 1971 made by the Central Government was inapplicable to the Bank in view of several awards as well as bipartite settlements between the Bank and its employees yet no finding whatsoever had been recorded on this aspect by the Tribunal and this submission had also been brushed aside by the High Court in a very casual manner. The learned counsel for the respondent has, however, submitted that the two forums below having exercised their discretion in favour of the employees who had been fighting for their cause for almost 30 years, the orders should not be

interfered with more particularly as all other banks had accepted and accorded the benefits to their employees under the declaration dated 1st July, 1971.

7. We have considered the arguments of the learned counsel for the parties. It is true, as has been contended by the learned counsel for the appellant, that both the Tribunal as well as the High Court have ignored the vital aspect of the matter i.e. the effect of the awards and settlements arrived at between the management of the bank and its employees and their effect thereon in determining their inter-se rights and obligations. The Tribunal has completely ignored this basic issue and the High Court has also given short shrift thereto. We are of the opinion that this is the crucial matter in the dispute raised by the employees. We accordingly allow this appeal, set aside the judgment of the High Court and award of the Industrial Tribunal on point No.2 and remand the case to the latter for a fresh decision in accordance with law in the background of the awards and settlements between the bank and its employees vis-à-vis the declaration of 1st July, 1971. In the light of the fact that the matter has been pending in one

forum or the other for the last two decades, we would request the Industrial Tribunal to take a decision in the matter within six months from the date of supply of a certified copy of this judgment to the Tribunal. There will be no order as to costs.

..... J.
(TARUN CHATTERJEE)

.....J.
(HARJIT SINGH BEDI)

New Delhi
Dated: May 9, 2008