

PETITIONER:
G.S. KAUSHIK & ANR.

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 12/04/1996

BENCH:
AGRAWAL, S.C. (J)
BENCH:
AGRAWAL, S.C. (J)
NANAVATI G.T. (J)

CITATION:
JT 1996 (5) 606 1996 SCALE (3)491

ACT:

HEADNOTE:

JUDGMENT:

WITH

WRIT PETITION I.A. NOS. 1 & 2 IN (CIVIL) NO. 7149-50 OF 1982
Rakesh Kumar Gautam & Anr
V.
Union of India & Ors.

J U D G M E N T

S.C. Agrawal, J.

These applications for directions have been filed in Writ Petitions Nos. 132 of 1984 and 7149-50 of 1982. In the said Writ Petitions filed by the All India Regional Rural Banks Employees Association and the All India Gramin Bank Worker's Organization representing the employees of the Regional Rural Banks (for short 'RRBs'), the petitioners sought parity in emoluments between the employees of RRBs inter se as well as the employees of the Nationalized Commercial Banks. The said Writ Petitions were disposed of by this Court by the following order dated September 1, 1987:-

"We are happy to know that the Central Government had agreed to appoint a National Industrial Tribunal to decide the question relating to pay, salary, other allowances and other benefits payable to the employees of Regional Rural Banks constituted under the Regional Rural Banks Act, 1976. The learned counsel for the petitioners also agreed that a reference may be made to the proposed Tribunal. In view of the above, it is not necessary to pronounce on the questions of law raised in these writ petitions before us. We leave all the contentions. The Central Government

shall refer the dispute to the Tribunal, preferable to a retired Chief Justice of a High Court, within four weeks from today. We hope that the Tribunal will pronounce its award as expeditiously as possible. These writ petitions are disposed of accordingly."

In accordance with the directions given by this Court, the Central Government, by order dated November 26, 1987, constituted a National Industrial Tribunal (hereinafter referred to as 'the Tribunal') consisting of Hon'ble Mr. Justice S. Obul Reddy, retired Chief Justice of Andhra Pradesh High Court, as its Chairman. By the said order the disputes relating to pay, salary, other allowances and other benefits payable to the employees of RRBs in terms of the pleadings of the parties in Writ Petitions (Civil) Nos. 7149-50 of 1982 and 132 of 1984 filed in this Court were referred to the Tribunal. The Tribunal gave its award dated April 30, 1990, wherein the Tribunal has held that upto August 31, 1987 the employees of RRBs should be extended the pay scale and allowances as are admissible to the State Government employees in comparable posts and status and that with effect from September 1, 1987 the said employees shall be entitled to the pay scales, allowances and other benefits on par with the employees of comparable levels in corresponding posts of respective sponsor banks. With regard to equation of posts the Tribunal has held that the Government of India may decide the same in consultation with such authorities, as it may consider necessary. The Government of India appointed an Equation Committee on October 5, 1990 under the Chairmanship of Shri P. Kotaiah the then Managing Director of the National Bank for Agriculture and Rural Development (for short 'NABARD'). The Equation Committee submitted its report on January 8, 1991 which has been accepted by the Government of India and instructions have been issued to all the implementing agencies by circulars dated February 22, 1991 whereby RRBs employees have been brought into the sponsor bank scales of pay with effect from September 1, 1987. The salaries of employees in the employment of RRBs are being paid in the revised scales from January 1, 1991.

By these applications the applicants are seeking directions regarding implementation of the directions given by the Tribunal in the award. The main grievance of the applicants is regarding non-payment of arrears payable to the employees of RRBs in terms of the award of the Tribunal. As per the counter affidavit filed on behalf of the Union of India the said liability is about Rs. 220 crores. By order dated September 12, 1994, the Court directed the Union of India and NABARD to prepare a scheme in consultation with the Employees' Association with regard to the discharge of the said liability. In pursuance of the said directions, the Government of India constituted a Committee under the Chairmanship of Shri K. Basu, General Manager, NABARD, [hereinafter referred to as 'Basu Committee'], to prepare a scheme with regard to payment of arrears to all the employees of RRBs as a consequence of the implementation of the award of the Tribunal read with the report of the equation Committee. Basu Committee, in its report dated February 22, 1995, has suggested a scheme for payment of the arrears payable to the employees of RRBs in terms of the award. In respect of the employees who are in the employment of RRBs as on the date of pronouncement of the Scheme and

employees who were/are dismissed/whose services were/are terminated/who ceased to be in employment of the RRBs by any other method save those who retired/resigned/deceased whether prior to or after the pronouncement of the Scheme, the Scheme envisages payment of the arrears in three instalments. The first instalment to be paid within six months from the date of pronouncement of the scheme by this Court, the second instalment to be paid not later than one year from the date of payment of the first instalment, and the third instalment to be paid not later than one year from the date of payment of the second instalment. As per the said Scheme the first instalment would cover 50% of the arrears while the second and third instalments each would be in respect of 25% of the said arrears. As regards employees who have retired/resigned upto and including the date of pronouncement of the scheme by this Court and in respect of legal heirs of deceased employees who died either while in service or otherwise upto and including the date of pronouncement of the scheme, it has been suggested that the entire payment should be paid lump sum in one instalment. As regards those employees who retired/resigned after the date of pronouncement of the scheme by this Court and legal heirs of deceased employees who died either in service or otherwise after the date of pronouncement of the scheme by this Court, it has been suggested that the payment may be made in two instalments of 50% each. Basu Committee suggested that the funds for the purpose of payment should be provided by the Government of India in the form of soft loan and there shall be a moratorium for repayment of the loan by the RRBs to the Government of India for a period of five years from the date of the receipt of last instalment by RRBs from the Government of India and the repayment of the loan by RRBs to the Government of India after the moratorium period shall be as determined by the Government of India in consultation with each RRB separately. With regard to the rate of interest to be charged by the Government of India from the RRBs, it is suggested that it shall not exceed one fourth of the Bank Rate prevailing as on the date of pronouncement of the scheme by this Court.

The response of the Union of India to the scheme suggested by the Basu Committee is contained in the affidavit of Shri Sudhir Shrivastava, Deputy Secretary, Ministry of Finance, Department of Economic Affairs, Banking Division, dated February 20, 1996. In the said affidavit it has been stated that providing loan to RRBs for the purpose of payment of arrears as recommended by Basu Committee has been considered in depth and was not found appropriate for the following reasons :

"a) The RRBs are in wide different and varying financial position and uniformity may not be consistent with their widely different financial performance and achievements. The provision of loan from Government of India, would require repayments and thus burden the RRBs.

b) The provision of equity on the other hand is being made as a part of a comprehensive restructuring package. Further the servicing of equity is optional and contingent on generation of profits.

c) Any decision regarding RRBs should ideally also reflect the

views of the other two shareholders, namely, the sponsor bank and State Governments.

The equity route necessarily requires examination by the said shareholders of the problems of continuing losses and financial implications arising therefrom.

d) The Government considers it infeasible and inappropriate to provide loans to RRBs towards financing revenue expenditure. This would result in similar demands from other undertakings and increasingly strain and drain Government's budgetary resources. Government's view is to put together a package that will enhance the viability of RRBs. The long term interests of the employees are also best subserved in this manner. The scheme for payment of arrears, as stated above, is a bonafide attempt at reconciling the interests of the depositors, the borrowers, the RRBs themselves and the employees. Respondent No. 1 respectfully submits that the Hon'ble Court may be pleased to approve the measurss in the facts and circumstances of the case stated hereinbefore."

In the said affidavit the following course of action has been suggested :-

"i) 49 out of 196 RRBs have been taken up for comprehensive restructuring by way of infusion of additional share capital. These 49 banks along with 4 RRBs in profit (in all 53 RRBs) have already been asked to make payments in accordance with the scheme suggested by Basu Committee.

ii) At least 50 more RRBs are being identified for restructuring/revamping. Such banks will also start paying the arrears as per the scheme suggested by basu Committee, within six months from date.

iii) It is submitted that the remaining RRBs. will also commence payment within six month from date but they may be allowed to pay in four equal annual instalments."

The learned Solicitor General Of India. appearing for the Union of India has submitted that the number of RRBs in the category (i) mentioned above is now 53.

Having regard to the submissions contained in the affidavit of Shri Sudhir Shrivastava, we direct that the liability for payment of arrears payable to the employees of the RRBs for the period upto December 30, 1990 in terms of the award of the Tribunal shall be discharged in the following manner ;

(1) 53 RRBs, as mentioned in para 4(i) of the affidavit of

Shri sudhir Srivastava shall make payment as per the scheme suggested by Basu Committee in its report dated February 22, 1995. The said scheme in respect of these banks will be operative with effect from February 20, 1996.

(2) The RRBs falling under para 4(of the affidavit of Shri Sudhir Srivastava, will make payment as per the scheme suggested by Basu Committee. In respect of these Banks the scheme will be operative with effect from August 20 1996.

(3) As regards remaining RRBs falling under para 4(iii) of the affidavit of Shri Sudhir Srivastava, the scheme as suggested by Basu Committee would apply subject to the modification that the amount of arrears shall be paid in four instalments instead of three instalments as suggested by basu Committee and each instalment will be for 25% of the amount of arrears. The first instalment would be payable by August 20 1997 and other instalments would be payable after yearly intervals.

(4) The employees falling in categories (b) and (c), as mentioned at page No. 74 of Report of Basu Committee, shall be paid all the arrears in lump sum in one instalment. In respect of RRBs mentioned in para 4(i) of the affidavit of Shri Sudhir Srivastava the said amount, if not paid, shall be paid by April 30, 1996. In respect of RRBs mentioned in paras (ii) and (iii) of the affidavit of Shri Sudhir Srivastava, the said amount shall be paid by August 20, 1996 and August 20, 1997 respectively.

(5) The employees falling in categories (d) and (e) as mentioned at page 74 of the report of the Basu Committee shall be paid the arrears in two instalments as suggested in the scheme prepared by Basu Committee. In respect of RRBs mentioned in paras 4(1),4(ii) of the affidavit of Shri Sudhir Srivastava, the first instalment will be payable by April 30 1996, August 20, 1996 and August 20, 1997 and the second instalment will be payable by February 20, 1997, August 20 1997, and August 20,1998 respectively.

(6) No interest will be payable on amount of arrears to be paid as per these directions.

<7) it will be the responsibility of the Union of India to ensure that the payment are duly made as per these directions.

Apart from the payment of arrears, the petitioners have also sought directions in respect of other directions given by the Tribunal in the Award. We do not propose to deal with these grievances of the petitioners. We, therefore, direct that the award of the National Industrial tribunal shall be treated as award of tribunal under the industrial Disputes Act, 1947 and it will be open to the employees of RRBs, irrespective of the fact whether they fall within the ambit of the expression 'workman' as defined in section 2(s) of the industrial Disputes Act or not, to seek their remedies for implementation of the award in respect of those matters before the appropriate forum under the industrial Disputes Act. The application for directions are disposed of accordingly. No costs.