

Government of India
Ministry of Labour & Employment,
Central Government Industrial Tribunal-Cum-Labour Court-II, New
Delhi.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 119/2012

Date of Passing Award- 8th May, 2023

Between:

Sh. R.S Saini,
The President,
All India Allahabad Bank Employees Association,
R/o:115, Yadav Park, Najafgarh Road,
Nangloi, New Delhi-110041

Workman

Versus

The General Manager,
Allahabad Bank,
17, Parliamant Street,
New Delhi-110001

Management

Appearances:- Claimant in Person Sh. S.K Saini.
Sh. Rajat Arora, Ld. A/R for the management.

A W A R D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of (i) The General Manager, Allahabad Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub

section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12011/90/2011(IR(B-II)) dated 24.05.2012 to this tribunal for adjudication to the following effect.

“Whether the action of the management of General Manager, Allahabad Bank, Parliament Street, New Delhi in making the payment of stoppage of 02 increments after a lapse of 13 years on 01.11.99 in reference to CGIT No.2, Dhanbad award dated 10.6.86 in ID case No. 103 of 1985 to Sh. Ranbir Singh Saini, Ex-employee of Allahabad Bank, without any interest on delayed payment is justified? What benefit will be given to the workman and from which date?”

The claimant in the claim statement has stated that he joined the service of the mgt Bank as a Clerk in the year 1973 and initially posted in the State of Bihar. Subsequently he got transferred to Delhi in the year 1989 and served there until his retirement in November 2001. At the time of retirement, he was holding the post of supervisor and posted at Baroda House Branch of the Bank. During the period of his employment, he was an active union member and office bearer of the union. He had held the post of the All India President and General Secretary of the said union. When posted in Bihar, on 03.10.1979 a false charge sheet was served on him on account of his union activity. Though he gave reply to the same, another charge sheet dated 26.12.1979 was served and the claimant gave reply to the same too. The bank conducted the departmental inquiry against him and at the end of the inquiry, imposed punishment by stopping two increments which was an act of arbitrariness. The claimant challenged the same before the Labour Commissioner and for failure of conciliation, Ministry of Labour referred the matter to CGIT No.2 Dhanbad where it was registered as ID No. 103/1985. After hearing the matter, the CGIT Dhanbad passed an award in favour of the claimant on 10.06.1986, and set aside the punishment by restoring two increments. The Bank mgt challenged the said award by filing a writ petition before the Hon’ble High Court of Patna as CWJC 4212/1986 the said writ petition was dismissed by Hon’ble High Court in the year 1998,

confirming the order passed by the CGIT Dhanbad. Even after dismissal of the writ petition, the bank did not restore the increments nor paid the arrears causing huge financial loss to him. The claimant then made several correspondences with the higher authorities of the Bank for implementation of the award. A legal notice in this regard was sent to the mgt on 10.03.1999 addressed to the chairman of the Bank. In spite of all these efforts, the bank did not pay his legitimate dues. Finding no other way the claimant initiated an execution proceeding before the Regional Labour commissioner Patna. For the intervention of the RLC the Bank made payment of Rs. 42,556.36 by crediting the same in his bank account after deducting a some of Rs. 15,200 towards income tax, which too was illegal as the claimant was not an income tax payee in the relevant years. The workman claimed interest on the late payment but the bank did not consider the same. Being aggrieved, the workman had filed LCA no. 18/2001 before the CGIT 2 Delhi. But the same was withdrawn as he was advised to file a claim before the competent authority. Thus the claimant raised a dispute demanding interest for the late release of the money pursuant to the award before the labor commissioner. Another round of conciliation took place. But for the failure of the conciliation the appropriate govt. referred the matter to this Tribunal for adjudication. The claimant has further stated that the bank made payment of the amount 13 years after the award passed by the CGIT Dhanbad. The Bank did not consider his demand for payment of interest and the said act of the Bank is illegal, arbitrary and prejudicial to the interest of the claimant. Hence, in the claim petition the prayer has been made for a direction the bank to pay interest at the rate of 12% per annum on the accrued amount for the period 1981 to 1999 amounting to Rs. 10,9,725 together with Rs. 2 Lakh as compensation for the harassment and mental agony suffered by him.

The mgt appeared and filed written statement admitting all other facts except the demand for interest. It has been stated that the present proceeding is hit under the principles of Resjudicata. It has been stated that the LCA no. 18/2001 filed by the claimant was

dismissed as withdrawn and at that time no liberty was granted to the claimant for raising a separate industrial dispute. The CGIT Dhanbad in its award dated 10.06.1985 passed in ID NO. 103/1985 had never directed for payment of interest. The mgt in exercise of its statutory rights had challenged the award before the Hon'ble high court of Patna which was disposed of in the year 1997. The time consumed between the date of award and the date of dismissal of the writ petition was not for any fault of the mgt. However, after dismissal of the writ petition in the year 1997, the Bank mgt made payment to the claimant in the year 1999 and the time was consumed in the official process for sanction of the money. Hence, in absence of contributory negligence of the Bank, interest is not payable. It has also been stated that when the LCA filed was dismissed the present proceeding is not maintainable.

The claimant filed replication denying the stand taken in the written statement. On this rival pleading the following issues are framed for adjudication.

Issues

1. Whether the action of the mgt of General Manager, Allahabad Bank, Parliament Street, New Delhi in making the payment of stoppage of 02 increment after a lapse of 13 years on 01.11.1999 in reference to CGIT No.2 Dhanbad award dated 16.06.1986 in ID. Case No. 103 of 1985 to Sh. Ranbir Singh Saini, Ex-employer of Allahabad Bank, without any interest on delayed payment is justified? If so its effect?
2. To what relief the workman is entitled to and from which date?

The claimant examined himself as WW1 and filed the photocopy of the award passed by the CGIT Dhanbad as ww1/1. He has also filed the photocopies of the letter of the Chief Manager of

Allahabad Bank, Parliament Street, addressed to the Regional manager, the representation of the claimant to the General manager, the copy of the legal notice and the reply filed by the Bank during the conciliation proceeding to the labour commissioner and a calculation sheet of interest prepared by the claimant. Similarly, the mgt examined its chief manager as mw1 who filed the photo copy of the order passed by the High Court of Patna dismissing the writ petition filed challenging the award passed by the CGIT. Both the witnesses were cross examined at length.

Findings

The admitted facts are that a domestic inquiry was held against the claimant and he was punished by stoppage of two increments. The same was challenged in ID No. 103/1985 and the Tribunal by order dated 10.06.1986 restored the increments stopped and set aside the order of punishment made in the domestic inquiry. It is also admitted that the writ petition filed by the mgt was dismissed and the order of the CGIT was confirmed. Now, the grievance of the claimant is that the award, though was passed in 1986 the Bank in order to harass him filed the writ petition which remained pending for more than 10 years and ultimately decided in 1997 in favour of the claimant. This was a deliberate action of the mgt. Even then, the Bank delayed payment and the same was realized in the year 1999 without interest. Thus the claimant's prayer for payment of interest is genuine. During cross examination the claimant has admitted that he is demanding interest for the period 1982-1999 and LCA filed by him was withdrawn on the advice of the PO CGIT Delhi. He thereby insisted that the delay in payment being attributable to the mgt Bank, he is entitled to interest. This stand of the claimant has been denied by the mgt. Thus, the short question which need to be answered is when the amount is due to the claimant on account of the award passed by the CGIT 2 Dhanbad, and in the said award, there is no direction for payment of interest, can the Bank be directed to pay the interest.

The claimant pursuing the proceeding has placed reliance in the case of S.K Dua vs. State of Haryana reported in 2008 Rajdhani Law Reporter, 71(SC) and submitted that when there is delay in payment of the legitimate dues, the claim for interest on late payment is well founded under article 14,16 and 21 of the Constitution of India. But, the judgment cited by the claimant is distinguishable on facts. In the case of S.k Dua he was denied his dues due to pendency of an inquiry. After closure of the inquiry which took about four years the department paid him his dues without interest. Thus, the Hon'ble court considered the same to be illegal and directed her payment of interest. But the facts of the present proceeding is different from the claim of S.K Dua. In this case the stoppage of increments was for a punishment and the punishment has been set aside by the industrial adjudicator who directed release of the increments. In the award passed by the Industrial Tribunal there is no direction for payment of interest. Hence, the Bank rightly executed the order of the industrial Tribunal by making payment of the arrear amount of the increments without interest. The other limb of the arguments advanced by the claimant is that the Bank intentionally challenged the award of the CGIT by filing a writ petition before the Hon'ble High court of Patna which took more than 100 years to be disposed of and ultimately caused delay in payment of the dues to the claimant. This argument does not sound convincing since a party to a litigation has right to challenge the decision passed against him in a higher forum. Thus, it is held that the claim of the claimant for interest and compensation on account of prolonged litigation are not entertainable when no order was passed to that effect by the CGIT 2 Dhanbad. Hence ordered.

Order

The reference be and the same is answered against the claimant. It is held that the claimant is not entitled to the interest on the arrear or compensation which was not directed by the CGIT while passing award as claimed by him.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
8th May, 2023

Presiding Officer.
CGIT-cum-Labour Court.
8th May, 2023