

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. 81/2016**

**Date of Passing Award- 09<sup>th</sup> May, 2023**

Between:

Shri Ramakant Pathak And Sh. Rama Shankar Mahto  
Represented by Vice President,  
PNB Workers Union,  
L-Block, Cannaught Circus,  
New Delhi-110001

Workman

Versus

The Assistant General Manager (P)  
Punjab National Bank,  
Cricle Office-North Delhi, 4<sup>th</sup> Floor,  
Rajendra Bhawan, Rajender Palce  
New Delhi

Management.

Appearances:-

Shri I.P Singh, Ld. A/R for the claimant.

Shri 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 Assistant General Manager (P) Punjab National 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-12012/60/2016(IR(B-II)) dated 05.09.2016 to this tribunal for adjudication to the following effect.

“ Whether the action of the management of Punjab National Bank by not paying the Officiating Allowance to Sh. Ramakant Pathak and Sh. Rama Shankar Mahto both peon, from March, 2010, is fair and legal? If not to what relief the workman is entitled to and from which date?”

As per the claim statement the claimants Ramakant Pathak and Rama Shankar Mahato were working as peon and permanent employees in the Mgt Bank, when they were directed by the Branch manager to perform the duties of cash clerk. Both of them are the members of the Punjab National Bank workers union which is a registered union and has been authorized to espouse the cause of the workmen. It has been stated that on the instruction of the branch managers they were officiating on the cash seat of the Bank as clerks from time to time since Oct 2008. As such they are entitled to officiating allowance as per the rules and practice of the Bank. From Oct 2008 to Feb 2010 the Bank paid them officiating allowance for performing/officiating as cash clerk. But suddenly, from march 2010 onwards, the Bank stopped making payment of the officiating allowances without any reason. The request made by the claimant in this regard from time to time were not considered. During the period between March 2010 to March 2012 the Bank did not pay them the officiating allowance without any reason. However, after march 2012 the Bank again resumed payment of the officiating allowance to the applicants for the number days they actually performed the duties as

clerk. Several requests and representations made by the claimants to the Bank mgt for release of the unpaid officiating allowance remained un headed. The claimants also represented their case through PNB workers unions Delhi. But except the verbal assurance no other result could be achieved. Finding no other way the claimants raised a dispute before the Labour Commissioner cum Conciliation Officer on 16.07.2015. But the Bank Mgt did not cooperate nor filed any reply which led to failure of conciliation. The appropriate govt. thus referred the matter to this tribunal for adjudication on the entitlement of the claimants for the officiating allowance for the period as mentioned in the claim petition. The claimants have briefly stated a calculation of the officiating allowance payable to them individually. In the claim petition the prayer has been made for a direction to the mgt for payment of the officiating allowance for the relevant period along with interest at the rate of 12% per annum and cost of litigation, compensation etc.

The mgt of the Bank appeared and filed written statement denying the claim of the claimants. While admitting that the claimants Ramakant Pathak and Rama Shankar Mahato are the regular and permanent employees of the Bank, it has been stated that Ramakant Pathak was working as a Duftri at the Branch of the Bank at Barwala village Delhi and Shankar Mahato was working as a peon cum Duftri in the branch of the bank at Sant Nirankari Colony during the relevant period that is between March 2010 to March 2012. Both of them are now retired. Both the claimants being non- matriculate, were not eligible for the officiating allowance as per the Bank rules. The policy in respect of promotion from subordinate cadre to clerical cadre and fitment of salary on promotion, was circulated by circular no. 1289 dt. 21.06.1991. All India PNB Employees Federation had entered into a conciliation settlement with the mgt on 19.06.1991, in respect of promotion from subordinate cadre to clerical cadre. As per this settlement no opportunity shall be given to the sub staff to officiate in the clerical cadre if he is a non matriculate sub staff or a guard, chowkidar, full time sweeper cleaner drawing full wage even though

they are matriculate or graduate. These claimants were neither matriculate nor any office order was issued to them for officiating as clerks. The claimants not being eligible for promotion to clerical cadre were not allowed to officiate and accordingly the officiating allowance were not paid. The mgt had thus prayed for dismissal of the claim as not maintainable under law.

The workmen filed rejoinder stating that they are not concerned with the Rule of the Bank. They were asked to perform the duties of cash clerk from March 2010 to March 2012 and for discharging the work of the cash clerk, they are entitled to the officiating allowance. They have further stated that as per the circular issued by the Bank from time to time, they are entitled to the officiating allowance which was paid to them after March 2012. By filing different circulars of the Bank they have stated that the Bank has taken a false stand in the matter.

No formal issues were framed in this proceeding. Hence the only point which need to be answered as if the claimants are entitled to officiating allowance for the period March 2010 to March 2012 and if denial of the same by the Bank is legal.

The claimants examined themselves as ww1 and ww2. They have filed the copy of the claim petition filed before the ALC(Central) through the union, advancing the claim. Besides that, the claimant have filed the circular of the Bank issued by its Human Resource Department relating to promotion of sub staff to clerical cadre. In this circular dated 06.07.2015, the educational qualification and experience for such promotion has been prescribed. In addition to that the claimants have filed a number of documents which are in the nature of a register showing discharge of work by the claimants as officiating clerks during the period March 2010 to March 2012. These documents have been marked as ww1/5(colly). The claimants have also filed the salary details of the relevant period showing non-payment of officiating allowance during that period. Exbt ww1/8 is the document showing the status of the claimants as the officiating

clerk for the relevant period. But the mgt did not adduce any oral or documentary evidence to substantiate the stand taken by its or to disprove the claim the claimant though both the witnesses were cross examined at length by the Ld. A/R for the mgt.

### **Findings**

The admitted facts are that the claimants were the permanent sub staff of the Bank and both of them have retired from service. Whereas Ramakant Pathak retired in the year 2017 Rama Shankar Mahato retired on 31.03.2016. During their examination both the witnesses have stated that it is a matter of practice in the Bank that when any clerk of the Branch remains absent, with a view to manage the affairs without any disruption, the branch manager directs the sub staff to officiate as clerk. No formal office orders are issued in this regard. But for payment of the officiating allowance, a register is maintained indicating the name of the sub staff the absence of the persons for whom he is officiating and the number of days he officiated. At the end of the month, the said details are taken into consideration for payment of the officiating allowance as salary. Both the witnesses have further stated that during the period between Oct 2008 to Feb 2010 they were getting the officiating allowance for performing the duty of officiating cash clerk. But in March 2010 and till March 2012 the Bank without any reason stopped the payment. A calculation has been attached along with the claim statement which shows that the claimant Ramakant Pathak had performed the officiating duty for 642 days whereas Rama Shankar Mahato had performed the officiating duty for 419 days during the period between March 2010 to March 2012 but the officiating allowance was not paid to them for the said period. The witnesses have further stated that after March 2012, they are being paid officiating allowance again by the Bank.

Though in the w/s, the mgt has raised objection with regard to the eligibility of the claimants for officiating as clerks, no evidence has been adduced by the Bank to prove the same. On the contrary, the

workmen have adduced oral and documentary evidence to show that they were officiating prior to March 2010 and after March 2012 and are/were getting the officiating allowance which is evidently clear from the copy of the register filed by the claimants and marked as ww1/6, 1/7 and 1/8. No evidence to disprove the contents of the said documents have been filed by the mgt. Hence the evidence of the claimant stand rebutted and it is proved that the Bank mgt treated them unfairly by denying the officiating allowance for the period between March 2010 to March 2012 and they are held entitled to the same. Hence ordered.

### **Order**

The reference be and the same is answered in favour of the claimants. It is held that the claimants Ramakant Pathak is entitled to officiating allowance for a period of 642 days and the claimant Rama Shankar Mahato is entitled to officiate allowance for a period 419 days during the period between march 2010 to march 2012 as per their entitled pay scale. The Bank mgt is directed to calculate and pay the amount to the claimants within two months from the date of publication of this award with a nominal interest of 3 from the date of accrual and till the payment is made failing which the amount shall carry interest at the rate of 6 per cent per annum from the date of accrual and till the actual payment is made. No order is passed as to cost.

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.  
9<sup>th</sup> May, 2023

Presiding Officer.  
CGIT-cum-Labour Court.  
9<sup>th</sup> May, 2023

