

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. 37/2014

Date of Passing Award- 29.07.2022

Between:

The President,
Syndicate Bank Staff Association,
Ram Naresh Bhawan, B.M.S Central Office,
Tilak Gali, Chuna Mandir, Paharganj,
New Delhi-110055.

Workman

Versus

The General Manager,
Syndicate Bank, R.O Sarojni House,
New Delhi-

Management

Appearances:-

Shri Sunil Prakash
(A/R)

For the claimant

Shri Rajesh Mahindru
(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 Syndicate 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-12011/12/2014 (IR(B-II)) dated 02/04/2014 to this tribunal for adjudication to the following effect.

“Whether the refusal of promotion to Shri Samuel, the workman by the management of Syndicate Bank even though he is carrying the basic eligibility criteria is just, fair and legal? What relief the workman concerned is entitled to?”

As per the claim statement the claimant Shri Samuel represented by the Syndicate Bank Staff Association a registered trade Union of the employees of Syndicate Bank, had started working as an Attender in the subordinate cadre of the Bank since, 01.12.1986. after completing 5 years of service and for having the requisite educational qualification as well as for the seniority in the existing cadre he was entitled to be promoted to the non subordinate cadre (clerk) as per the policy of the Bank. But the management Bank without any reason denied the promotion. Being aggrieved the workman approach the claimant union who raised an industrial dispute

before the ALC(C).Before the said commissioner a conciliation proceeding was taken up but could not yield the desired result. The appropriate government then referred the matter to this tribunal for adjudication as per the terms of the reference. In the claim statement the claimant has further elaborated that since the year 1993 he was appearing as a candidate for promotion in respect of the vacancies duly notified by the management. But for reasons best known to the management he was denied the promotion. The Syndicate Bank is a member of Indian Bank Association and the provisions of various awards and bipartite settlements arrived to ensure harmony between the management and the employee very well applies to the management bank. But the management in complete violation of the terms of bipartite settlement refused the promotion to the claimant who belongs to the minority community. Thus, the claimant has stated that for the discrimination and unfair practice adopted by the management he has been victimized. Though, he was appearing in the promotion process on different years since 1993 the bank management on each occasion found him unsuitable without any valid reason. It has also been stated that as per the bipartite settlement a subordinate staff of the bank having qualification of secondary certificate examination and 5 years of experience is eligible for the promotion to the non subordinate cadre. The claimant passed the secondary school examination in the year 1989 and also passed higher secondary examination in the year 1994. But to his misfortune he was not given promotion by the Bank who had some ulterior intention behind the said action. Thus, in this claim statement the claimant has prayed for a direction to the management to give him promotion to non subordinate cadre w.e.f 1993 and pay him the salary and all other service benefits w.e.f 1993 and the promotion process taken in the year 1993 and thereafter during which the claimant was not promoted be treated as void.

Notice of the claim being served the management appeared and filed written statement. In the written statement the maintainability of the proceeding was challenged on the ground that the union which has raise the issue is not the authorized union and the claimant Shri Samual is not a member of the same. Further the refusal of the promotion is not an industrial dispute as define in the Id Act since the same is not a condition of service but an incidence of the service. The issue doesn't involve employment, non employment or violation of the condition of the employment of the claimant. With regard to the allegations made by the claimant it has been stated in the WS that the erstwhile Syndicate Bank now merged with Canara Bank is a member of Indian Bank Association and bound by the different awards and bipartite settlement. As per the said award and settlement the Bank periodically discusses with the recognized majority workman union to arrive at an understanding on the issue of mutual interest which includes promotion from subordinate cadre to non subordinate cadre. Thus, the process of selection and mode of promotion changes from time to time. The Bank has signed a settlement with the majority union for filling up the posts in clerical cadre by way of promotion and according to the settlement process the

exercise of promotion shall be completed during the relevant year. The Bank carries out the process of promotion in a very transparent manner. The aspirants for such promotion go through various stages of selection including written test viva viz and branch review. After consideration of the individual employee a merit list is prepared and promotion is given. The claimant had appeared in the selection process for promotion in the year 1995, 1997, 2003, 2006 and 2011. But on all the occasions he could not qualify the test. It is in the year 2014 he qualified the test and got promotion. While denying the allegation of discrimination and unfair practice the management has challenged the claim as not maintainable. All other allegations leveled by the claimant has been denied.

The claimant filed rejoinder retreating the stand taken in the claim petition.

On the rival pleadings the following issues were framed for adjudication.

ISSUES

1. Whether the refusal of promotion to Shri Samuel the workman by the management is just fair and legal. If so its effect.
2. Whether the workman is entitled for promotion with back wages and allowances w.e.f 1993.
3. To what relief the workman is entitled to and from which date.

The claimant testified as WW2 and produced several documents which have been marked in a series of exhibit WW2/1 to WW2/11. The president of the Union has testified as WW1 and proved the documents of espousal. Both the witnesses were cross examined at length by the management. The Manager (HR) of Syndicate Bank Regional Office Delhi has been examined as MW1 who filed photocopies of the Bank circular relating to promotion from sub staff to clerical cadre decided as a policy of the Bank in different years.

The Ld. A/R for the claimant open the argument saying that the bank has taken all false pleas and intentionally he was kept out of the list of selected candidate. Time and again he was appearing but for some vague reasons he was not selected. Not only that the documents relating to the procedure of selection and the list of selected candidate alongwith the merit list and the marks scored though asked was never supplied. On the other hand the Ld. A/R for the management Bank argued that the claimant had made application under RTI and all permissible documents were supplied to him. While admitting that the claimant had appeared on various years he explained that promotion cannot be claimed as a matter of right and dependent on the performance of the candidate.

The admitted facts are that the claimant had joined the Bank as a subordinate staff on 01.12.1986 and got promotion as a clerk on 24.08.2014. The claimant has stated that for promotion from subordinate cadre to non

subordinate cadre the candidate as a pre condition should have completed 5year service with the Bank and should have passed secondary school certificate examination. The claimant cleared his secondary school certification examination in 1993 and senior secondary examination in 1995. By filing photocopies of the certificate issued by the appropriate board he has claimed his eligibility. In the sworn testimony he has stated that since 1993 he has been applying and appearing every year in the selection test for promotion but for the arbitrariness, discrimination and illegality in gross violation of the terms of the bipartite settlement the promotion was denied to him. He then approached the union and raised a dispute before the Labour Commissioner where the conciliation process though taken up failed. He has alleged against some individual officers of the Bank for denial of promotion. His statement has been corroborated by WW1the President of the Union. During cross examination the witness admitted that the promotion from the post of Attender to clerk is not a routine process and the candidate has to appear in the written test as well as in the interview. He has further admitted that in all his attempts before 2014 he failed. For qualifying in the test 2014 he got his promotion. This statement of the claimant has also found support from the evidence of the management witness MW1. She is the HR Manager who looks over the affairs relating to promotion. Her evidence reveals that the procedure for promotion is not automatic but based upon certain criteria. These criteria are changed every year after discussion with the majority union and the terms are decided as acceptable to both the parties. The witness has further stated that the claimant in the year qualified in the written test viva and his branch report was satisfactory.

The Ld. A/R for the claimant submitted that intentionally the claimant was left out of the selection process and the documents which could have been proved in support of his eligibility were never made available. He argued that the information sought under RTI were also not supplied.

Perusal of the record shows that the claimant during the proceeding had never taken steps for the records to be called from possession of the bank. Further perusal of the record shows that after the closure of evidence a petition was filed to call for the document which was not considered. Thus, from the circumstances it clearly appears that the claimant has failed to discharge the primary burden of proving that he had qualified in the test but not given the promotion. During course of argument it came out that the claimant has retired from service in the meantime on attaining the age of superannuation. There is absolutely no documentary evidence which has proved that the claimant was denied of his legitimate rights in getting the promotion. As admitted by both the parties and from the documents filed by the management it is proved that the promotion from subordinate cadre to clerical cadre is subject to successful completion of the qualification test and the claimant as per his own admission had failed to clear the same on

previous years. It is in the year 2014 he cleared the test and got the promotion. In such a situation it is held that the refusal by the management to give promotion to the claimant to the post of clerk prior to 2014 was proper and no illegality or discrimination was meted to the claimant. Thus, all the issues framed are answered against the claimant. Hence, ordered.

ORDER

The reference be and the same is answered against the claimant and it is held that no illegality was ever committed by the management Bank in not giving promotion to him prior to 2014. 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.
29th July, 2022.

Presiding Officer.
CGIT-cum-Labour Court.
29th July, 2022.