

South Malabar Gramin Bank vs Co-Ordination Committee Of South ... on 31 January, 2001

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Bench: B.N. Agrawal

JUDGMENT

Pattanaik, J.

1. South Malabar Gramin Bank and the Union of India, have filed two civil appeals against the judgment of the Kerala High Court dated 25.11.1998. The Division Bench of Kerala High Court by the impugned judgment, dismissed the appeals filed against the judgment of the learned Single Judge and held that the Central Government having accepted the NIT Award as well as the report of the Equation Committee and having given effect to the 5th Bipartite Settlement between the employees of the sponsor bank and the management, the employees and officers of the Regional Rural Banks ipso facto would be entitled to the revision of their wages, as and when the wages of the sponsor bank employees get revised, pursuant to Bipartite Settlement and, therefore the subsequent Bipartite Settlements, namely the 6th and 7th Bipartite Settlements should be given effect to revise the pay structure of the officers and employees of the Regional Rural Banks also. In these appeals, apart from the respondents, who had filed the writ petition in Kerala High Court, namely Co-ordination Committee of South Malabar Gramin Bank Employees Union, All India Regional Rural Bank Employees Association, who had filed the writ petition in the karnataka High Court had applied for intervention, All India Regional Rural Bank Officers Federation, who happen to be the petitioner in Transfer Petition No. 403/99, All India Gramin Bank Workers Organisation, who had filed a writ petition in this Court, under Article 32 wherein order has been passed that writ petition would come after disposal of the civil appeals, had made their respective submissions through different counsel, all the respondents having supported the judgment of the learned Single Judge of

Kerala High Court, as upheld in appeal by the Division Bench. It may be noticed at this stage that the similar question had been raised before the Calcutta High Court and a learned Single Judge of the Calcutta High Court had dismissed those writ petitions by judgment dated 5.9.95 in C.O.No. 12653/95 and C.O. No.12869/95 and the appeal against the same before the Division Bench is pending. In the Karnataka High Court writ petition No. 17905/97 had been filed by All India Regional Rural Bank Employees' Association and that writ petition stood disposed of by judgment dated 11th of November, 1998. The High Court allowed the writ petition, quashed the appointment of the Committee as well as its Report dated 17th May, 1997 and issued directions to pay salary and allowances to all the employees of Regional Rural Banks w.e.f. 1.11.1992 in accordance with the pay and allowances and benefits implemented in respect of the employees of Nationalised Commercial Banks as per the Memorandum of Settlement dated 14.2.1995 and as per the wage revision given to those officers of the Nationalised Commercial Banks from 1.11.92 and 1.7.1993. Against the said judgment, an appeal filed before the Division Bench is pending.

2. Writ Petitions under Article 32 of the Constitution had been filed in 1982 and 1994 in the Supreme Court, challenging the validity of Section 17 of the Regional Rural Banks Act, 1976 (hereinafter referred to as 'the Act') on the ground that the provision of Section 17 is ultra vires of Article 14 and 16 of the Constitution. The writ petitions had been filed by All India Gramin Bank Workers' Association and by All India Regional Rural Bank Employees' Association. The employees of the Rural Banks had all along been making a grievance that in the matter of their pay structure, they are entitled to get the same scale of pay, as is available to the employees of rural banks of different nationalised commercial banks. But since the Government did not meet their demand, they filed the writ petitions under Article 32, as stated earlier. It was prayed in the writ petitions that Section 17 of the Regional Rural Banks Act, be struck down, as being ultra vires of Articles 14 and 16(1) of the Constitution and writ in the nature of mandamus be issued directing the Union of India to fix the emoluments of the Regional Rural Bank Employees in conformity with the judicial maxim of "Equal pay for equal work" and "industry-cum-region formula" and bring about parity in emoluments between the employees of Regional Rural Banks inter se and employees of the Nationalised Commercial Banks. While these writ petitions were being heard in the Supreme Court, the Government of India 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 the Regional Rural Banks constituted under the Regional Rural Banks Act, 1976 and the counsel for the petitioners also agreed that a reference may be made to the proposed tribunal. This Court, therefore left all the contentions open and directed the Central Government to refer the dispute to the tribunal, preferably to a retired Chief Justice of a High Court, who will pronounce its award as expeditiously as possible. In terms of the aforesaid orders of this Court, the Central Government appointed Justice S.Obul Reddi, retired Chief Justice of High Court of Andhra Pradesh as Chairman of National Industrial Tribunal and referred the disputes to the said tribunal. The Notification, appointing the tribunal stated that the decisions of the tribunal will be final and binding. The tribunal thus appointed, passed an award after elaborate discussion of the materials placed before it. The ultimate directions of the tribunal were that officers and employees of the Regional Rural Banks will be entitled to claim parity with the officers and other employees of the sponsor banks in the matter of pay scale, allowances and other benefits and the tribunal further directed that the aforesaid award should be given effect to with effect from 1st September, 1987. With regard to

equation of posts and consequent fixation of the new scales of pay, allowances and other benefits for officers and employees of the Regional Rural Banks at par with the officers and other employees of the comparable level in corresponding posts in sponsor banks and their fitment into the new scales of pay as are applicable to officers of sponsor banks, the tribunal held that it is a matter which has to be decided by the Central Government in consultation with such authorities as it may consider necessary and the award, according to the tribunal will cover all the existing Regional Rural Banks. By 1st of September, 1987, the employees of the nationalised commercial banks were getting their pay scales on the basis of 5th Bipartite Settlement and by implementation of the award of Justice S. Obul Reddi, the employees of the Regional Rural Banks were also given the benefit of the said 5th Bipartite Settlement on the basis of which the pay structure of the Nationalised Commercial Banks had been determined. Thereafter, when pay structure of the employees of the Nationalised Commercial Banks were further revised in 1992 and 1997 by means of 6th and 7th Bipartite Settlements, as there was no corresponding revision of the pay structure of the employees of the Regional Rural Banks, the present litigation started which had ultimately culminated in filing of these appeals, one by Union of India and the other by the South Malabar Gramin Bank Management. Before the High Court, the Bank took the stand that it is the Government of India, who has to determine the salary of employees of Regional Rural Banks in terms of Section 17 of the Regional Rural Banks Act, 1976 and on the basis of the revised pay structure of the Nationalised Commercial Bank Employees, pursuant to 6th and 7th Bipartite Settlements, the employees of the Regional Rural Banks ipso facto cannot get their pay structure changed. It was also stated that in fact the Reserve Bank of India had appointed S.C. Mahalik Committee to examine the pay structure of the employees of the Regional Rural Banks and to suggest changes therein. The learned Single Judge of the High Court came to the conclusion that by the decision of the Government of India dated 22nd February, 1991 implemented the award of Justice S.Obul Reddi and thereby extended the benefits of 4th and 5th Bipartite Settlements and on principle having accepted the same, further consideration by the Government of India or any order by the Government of India is not necessary for extending the benefits of the subsequent Bipartite Settlements to the employees and officers of the Regional Rural Banks and accordingly, the impugned direction was issued, which was upheld in appeal by the Division Bench.

3. Mr. P.P.Rao, the learned senior counsel, appearing for the South Malabar Gramin Bank, contended before us that under the provisions of the Act, more particularly under second proviso to Section 17(1) of the Act, it is only the Central Government, who has been conferred with the power to determine the remuneration of the officers and employees appointed by the Regional Rural Bank and for determining such remuneration, the legislature has also indicated the guidelines and this being the position the question of giving effect to any Bipartite settlement arrived at between the employees of the Nationalised Commercial Banks and the Government ipso facto to the remuneration structure of the officers and employees appointed by the Regional Rural Bank does not arise. According to Mr. Rao, when the grievances and the anomalies that existed prior to the appointment of Justice S. Obul Reddi Tribunal were focussed before the tribunal and the employees claimed the applicability of "equal pay for equal work", the tribunal in no uncertain terms held that the said principle cannot be made applicable and yet the tribunal held that the employees of the Regional Rural Bank are entitled to claim parity with the pay structure of the employees of the Nationalised Commercial Banks and in fact, directed implementation of the pay structure of the

employees of the Nationalised Commercial Banks, as it stood then in the year 1987, which had been obtained on the basis of the 4th and 5th Bipartite Settlements and the Government of India did implement the said award. But neither the award anywhere indicated that all subsequent pay revision of the employees of the Nationalised Commercial Banks would pro tanto be given effect to for determining the pay structure of the employees of the Regional Rural Banks, nor such a direction could be given in law as that would be contrary to the plain language of the second proviso to Sub-section(1) of Section 17 of the Act and that would tantamount to usurping the jurisdiction of the Central Government. According to Mr. Rao, the expression "parity" would not necessarily mean the same pay structure and therefore, the question of pay revision of the Regional Rural Bank employees will have to be re-determined by the Central Government in accordance with the guidelines stipulated in the second proviso to Sub-section(1) of Section 17 and that in making such determination, the existing pay structure of the Nationalised commercial Banks on the basis of any subsequent Bipartite settlement would be undoubtedly a relevant factor for the Central Government in arriving at a conclusion. Mr. Salve, the learned solicitor General, appearing for the Union of India and Mr. P.P.Rao, appearing for the Bank contended with vehemence that the financial condition of the Regional Rural Banks is not that affluent so as to enable the management to offer the pay structure, as is available to the employees of the Nationalised Commercial Banks and in determining the pay structure of the employees, the financial capacity as well as the performance of the Bank cannot be totally ignored, rather the same should also be a germane factor in the matter of determination. According to Mr. Rao, the revision of pay scales being a periodic exercise in all spheres of public employment and the Act having conferred the power on the Union government by virtue of the second proviso to Section 17(1) of the Regional Rural Banks Act, 1976, it would be for the Central Government to exercise that power at reasonable intervals, depending upon the circumstances of the case and then come to a conclusion on consideration of all germane factors, as to what would be the pay structure of the employees of the Regional Rural Banks. Mr. Rao also submitted that the legislature having clearly indicated by use of the expression "shall have due regard to" in the second proviso to Sub-section(1) of Section 17, it would be obligatory for the Central Government to find out the pay scales of the employees of local authorities as well as the notified area of comparable level and status, and in this view of the matter, if the contention of the employees is accepted, as has been accepted by the High Court of Kerala, it would tantamount to going against the legislative provision and such a construction is not permissible. Mr. Rao, very strenuously contended that the findings arrived at by the tribunal itself would indicate that the tribunal never intended that as and when the pay structure of the employees of the Nationalised Commercial Banks is changed on the basis of any Bipartite Settlement, the same should ipso facto get reflected by revising the pay structure of the employees of the Regional Rural Banks and in this view of the matter, the High Court of Kerala committed serious error in issuing the impugned directions. Mr. Rao, the learned senior counsel further contended that the Regional Rural Banks are separate statutory entities managed by separate statutory Board of Directors subject to statutory controls by the Reserve Bank of India and the Govt. of India. On the aforesaid premises on principle, it cannot be held that the employees of the Regional Rural Banks are entitled to the same scales of pay, as are available to the employees of the sponsored banks under bipartite settlements, without any further determination by the Govt. of India or the Reserve Bank of India. According to the learned counsel, the bipartite settlements ordinarily bind the employers and employees who are parties to the same. Since the Regional Rural Banks nor their employees were parties to such

settlements, they cannot claim any benefit under the settlements in question. According to Mr. Rao, revision of wage structure of the employees of the Regional Rural Banks will have to be undertaken by the Govt. of India in accordance with the statutory provisions contained in Section 17 of the Act and the Court can issue mandamus to the Central Government for exercise of power under Section 17, if the said power has not been exercised and in this view of the matter, the Kerala High Court was wholly unjustified in directing the pay revision of the employees, on the basis of bipartite settlements arrived at and given effect to, in respect of the employees of the nationalised commercial bank.

4. Mr. DD.Thakur, appearing for Respondents 1 to 3 in C.A. No. 2218-2219/99, contended before us that the facts leading to the appointment of Justice Obul Reddi, as a National Tribunal to decide the dispute between the employees and management of the Regional Rural Banks, unequivocally indicates that the dispute related to pay, salary, other allowances and other benefits payable to the employees of the Regional Rural Banks. The said tribunal having considered the dispute raised and having determined the same and that determination having been given effect to by allowing the pay structure of the employees of the nationalised commercial banks as it stood on the date of the acceptance of the recommendations of the award of Justice Obul Reddi, it is only logical that as and when the pay structure of the employees of the nationalised commercial banks get changed, the same must be given effect to in respect of the employees of the Regional Rural Banks. According to Mr. Thakur, Obul Reddi Tribunal having held that the employees of the Regional Rural Banks are entitled to claim parity with the employees of the nationalised commercial banks in the matter of pay structure, if there is no pay revision of the employees of the Regional Rural banks notwithstanding such revision in case of employees of the nationalised commercial banks, the decision of the tribunal to maintain parity would be meaningless and the finality to the said decision of the tribunal becomes meaningless. Consequently, even if the Central Government is required to exercise its power under proviso to Sub-section(1) of Section 17, then the same is a mere clerical act in implementation of the finally resolved dispute by award of Justice Obul Reddi tribunal and adjudged from this stand point, the High Court was fully justified in issuing the impugned direction. Mr. Thakur also contended that the power of the Central Government under proviso 2 to Sub-section(1) of Section 17 must be held to have got exhausted on the date the Central Government accepted the award of Justice Obul Reddi and question of re-determining the remuneration of the employees of the Regional Rural Banks would not arise, since they are entitled to a parity with the remuneration paid to the employees of the nationalised commercial banks. Mr. Thakur also urged that in giving effect to the award of the tribunal and in maintaining the parity between the employees of the RRBs with the employees of the nationalised commercial banks, so far as their remuneration is concerned, there can hardly be any justification to restrict the parity, only for a limited period proximate to the date of the award and not after that. It is contended by Shri Thakur that the parity must be maintained for all times to come and necessarily, therefore, as and when the remuneration of the employees of the commercial banks is revised, pursuant to any settlement between the employees and the management of such banks, the appropriate authority must give effect to the same, so far as the employees of the Regional Rural Banks are concerned. Mr. Thakur urged that in fact by Government order dated 22nd February, 1991, the bipartite settlement between the management and employees of the nationalised commercial banks, so far as their pay, allowances and other benefits are concerned, was given effect to and extended to the

employees/officers of the Regional Rural Banks and therefore, there is no justification for not giving effect to the subsequent bipartite settlement between the employees and management of nationalised commercial banks on the basis of which the pay structure stood revised for the employees of the commercial banks. Mr. Thakur also contended that the financial capacity as well as the performance of the Regional Rural Banks had been placed before Justice Obul Reddi Tribunal, but the tribunal positively came to the conclusion that the said financial capacity cannot be a germane factor in determining the pay structure of the employees of the Regional Rural Banks and then decided that there should be a parity between the employees of the nationalised commercial banks and the employees of the Regional Rural Banks. This being the position, it is futile for the employer-management as well as the Govt. of India to contend that the pay structure of the employees of the Regional Rural Banks could be revised only after due consideration by the Govt. of India under proviso to Sub-section(1) of Section 17 and after passing of any order thereunder. According to Mr. Thakur, such view of the matter would keep the dispute pending notwithstanding the resolve of the dispute by a tribunal appointed by the Govt. of India itself and notwithstanding the fact that the Government of India and the employer-management did accept the recommendations of the tribunal and gave effect to the said decision.

5. Mr. S.K. Dholakia, the learned senior counsel, appearing for the petitioners in Transfer Petition No. 403/99, filed on behalf of All India Regional Rural Bank Officers' Federation, contended that the lack of funds or resources of the employer-Regional Rural Banks will not in any way affect the constitutional rights of the employees of such rural banks enshrined under Article 14 of the Constitution of India. According to Mr. Dholakia, the determination of Obul Reddi tribunal to maintain parity between the employees of the commercial banks and the employees of the Regional Rural Banks is nothing but a decision to give equal treatment to the employees of both the organisations and, therefore, any treatment by the employer to the employees of the Regional Rural Banks which make them unequal with the employees of the nationalised commercial banks would violate the provisions of Article 14 and would be discriminatory in nature. Mr. Dholakia also contended that the object of constituting Regional Rural Banks under the statute was not profit making but to develop rural economy and therefore, the contention of Mr. Rao that the financial resources is a vital consideration, cannot be accepted. According to Mr. Dholakia, the award of Obul Reddi on the basis of 4th and 5th bipartite settlements entered into between the employees and employer of the nationalised commercial banks is merely an index for maintaining parity and that being the position as and when subsequent bipartite settlements are entered into by the employees and the employer of the commercial banks, the same must be given effect to in determining the pay structure of the employees of the Regional Rural Banks, so that parity could be maintained. In refuting the dismal picture of the Regional Rural Banks placed by the learned Solicitor General, Mr. Dholakia placed before us the report of the Reserve Bank of India which according to him gives a contrary picture.

6. Mr. D.A. Dave, the learned senior counsel appearing for All India Regional Rural Bank Employees' Association-intervenor, submitted that the failure of the nationalised commercial banks and the State Bank of India in fulfilling their obligation in the field of rural banking resulted in the establishment of the Regional Rural Banks. Such Regional Rural Banks have in fact taken over the function of the rural branches of the nationalised commercial banks. The Parliament enacted the Act

for constitution of Regional Rural Banks to augment the rural economy. When the employees of such Regional Rural Banks had approached this Court by filing petition under Article 32, voicing a grievance with regard to their salary structure and remuneration and claiming 'equal pay for equal work' and 'industry-cum-region formula' basis and wanted a writ of mandamus to the Union of India, the Central Government itself chose to appoint a tribunal, who was none else than a Chief Justice of a High Court and the Government itself decided that the decision of such tribunal would be final and binding on the parties, with the obvious object that the controversies would be resolved once for all. This is apparent from para 1.01 of the award of Justice Obul Reddi. The very nature of the dispute was such that it cannot be limited to any specified period and on the other hand, it must be for all times to come.

This being the position and the tribunal having considered the grievances of the parties and the respective stand of the parties for over a period of two and a half years and having given its findings and holding that the employees of the Regional Rural Banks are entitled to claim parity with the employees of the nationalised commercial banks, it would be a travesty of justice, if such parity is maintained on the date of acceptance of the award and not thereafter. According to Mr. Dave, having regard to the findings arrived at by Justice Obul Reddi, and the ultimate conclusion that the employees of the Regional Rural Banks are entitled to claim parity with the employees of the nationalised commercial banks w.e.f. 1.9.1987 onwards, the date on which the Supreme Court disposed of the writ petition by appointing the tribunal and the Central Government having accepted the same and giving effect to the same after appointing the Equation Committee for equation of posts and thereafter, extending the benefits of the pay structure which the nationalised commercial banks had received under the 4th and 5th bipartite settlements to the Regional Rural Banks employees, there cannot be any manner of doubt that the employees of the Regional Rural Banks would be entitled to the effect of the 6th and the 7th bipartite settlements arrived at between the employees and the employer of the nationalised commercial banks and the High Court of Kerala rightly allowed the relief sought for. According to Mr. Dave, that an award of an industrial tribunal and the obligations arising out of an award remains binding and continue to be binding on the parties which can be replaced only by a subsequent award or a settlement and that being the position, there is no other alternative for the management of the Regional Rural Banks as well as the Government of India to give effect to the 6th and 7th bipartite settlements on the basis of which the pay structure of the employees of the nationalised commercial banks stood revised to maintain the parity in terms of the award of Justice Obul Reddi and such decision of the tribunal (Justice Obul Reddi) cannot be whittled down by an executive order of the Central Government. According to Mr. Dave, the claim of the Union Government, as reflected through the submissions of the learned Solicitor General on the basis of financial constraint and current economic policy is nothing but a colourable exercise of power and is not available to be urged in view of the findings of Obul Reddi Tribunal. In fact the tribunal itself considered the alleged ground of incapacity to pay and negated the same while granting parity in the matter of emoluments between the employees of the Regional Rural Banks and the employees of the nationalised commercial banks. Any method or contrivance, according to Mr. Dave for non-maintaining the parity at any point of time would grossly violate the decision of the tribunal and as such cannot be sustained by this Court. Mr. Dave also contended that the dispute having been resolved by an adjudication of a tribunal, the issue may not be allowed to be re-opened, unless there is material change in the circumstances and in fact there has been no change

in the circumstances. Mr. Dave contends that the dictionary meaning of the word "parity" being equality, it is unthinkable that the so-called parity which had been maintained w.e.f. 1.9.87 would be given a go-bye by taking recourse to the exercise of power under proviso 2 to Sub-section(1) of Section 17 and even if such power exists, then that power has to be exercised in effectuating the award and in not contravening the award. In this view of the matter the judgment of the Kerala High Court, according to Mr. Dave, need not be interfered with and the pay structure as is available to the employees of the nationalised commercial banks could be given to the employees of the Regional Rural Banks. According to Mr. Dave, non-implementation of the benefits which the employees of the nationalised commercial banks have received on the basis of the subsequent bipartite settlement to the employees of the Regional Rural Banks, has brought about gross disparity and this is contrary to the letter and the spirit of the award itself. On the language of the second proviso to Sub-section (1) of Section 17 and the expression "having regard to" used therein, Mr. Dave contends that it merely indicates that the appropriate authority should look into those conditions but in the present case, a national tribunal having resolved the dispute by a long drawn process and having adjudicated the same by clearly indicating that the pay structure of the employees of the State Government and the local authorities, could not be a germane factor, the same cannot be resorted to at this length of time for nullifying the award which must be held to be binding between the parties.

7. Mr. G.L.Sanghi, the learned senior counsel who was permitted to make his submissions, since a writ petition filed under Article 32 is pending before this Court, on behalf of All India Gramin Bank Workers' Organisation and All India Gramin Bank Officers' Organisation, contended that the declaration made in award in paragraph 4.425 by virtue of a judicial adjudication, has formed a part of the conditions of Service of the employees of the Regional Rural Banks and, therefore that cannot be tinkered with by any executive order. The learned counsel further urged that by taking recourse to the power conferred on the Central Government under the second proviso to Sub-section (1) of Section 17, it would not be open to over ride the award and, therefore, as a necessary consequence, any revision of pay structure of the employees of the nationalised commercial banks has to be given effect to so far as the employees of the regional rural banks are concerned to maintain the so-called parity as determined by the tribunal of Justice Obul Reddi. According to Mr. Sanghi, the very idea of the employer to appoint a committee for re-determination of the pay structure of the employees of the Regional Rural Banks is nothing but an attempt to get over the effect of the grant of parity under the Obul Reddi tribunal and that should not be permitted by any Court of law. Refuting the submissions of Mr. P.P.Rao, appearing for the management of the Regional Rural Banks and the learned Solicitor General for the Union of India with regard to the performance of the regional rural banks, Mr. Sanghi placed before us the letter of the Minister of State (Finance) to a Member of Parliament, showing deep appreciation for the role played by the Regional Rural Banks in all its twelve thousand branches in the country at that point of time and Justice Obul Reddi Tribunal did take note of the said letter and referred to in paragraph 4.239 of the award itself. According to Mr. Sanghi, the High Court of Kerala in issuing mandamus and the learned Single Judge of the Karnataka High Court in striking down the appointment of a fresh Committee, have taken the correct decision and as such the Civil Appeals filed by the South Malabar Gramin Bank should be dismissed.

8. Mr. Jitendra Sharma, the learned senior counsel whose application for intervention has been allowed, appearing for All India Gramin Bank Employees' Association, contended that the bipartite settlement between the management and the employees of the nationalised commercial banks are settlements relating to entire banking industry, such settlements are entered into under Section 18 of the Industrial Disputes Act. Having regard to the manner in which the dispute between the management and the employees of the Regional Rural Banks arose and having regard to the manner in which the said dispute stood referred to the National Industrial Tribunal and a retired Chief Justice of a High Court was appointed as such tribunal and the said tribunal having resolved the dispute by coming to the conclusion that the employees of the Regional Rural Banks are entitled to the maintenance of parity with the employees of the nationalised commercial banks, any change in the pay-structure of the employees of the nationalised commercial banks must be given effect to so far as the employees of the Regional Rural Banks are concerned. The learned counsel placed reliance on a decision of this Court in Food Corporation of India Workers' Union vs. Food Corporation of India and Ors., 1990 Supp. SCC 296. According to Mr. Sharma the High Court of Kerala, both the learned Single Judge as well as the Division Bench took the right view and that need not be interfered with.

9. Before formulating the questions to be considered and answered in the anvil of the submissions made by counsel for the parties, it would be appropriate for us to notice the salient features of the award of Justice Obul Reddi, inasmuch as the bone of contention of the parties depend upon the same. The two writ petitions which had been filed in this Court under Article 32, sought for a parity with the employees of the Nationalised Commercial Banks in respect of pay, salary, other allowances and other benefits. The Court instead of examining the same and answering the same, left the matter to be heard and decided by a tribunal and the Central Government 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 the Regional Rural Banks constituted under the Regional Rural Banks Act, 1976. In the petition filed under Article 32, the validity of Section 17 of the Regional Rural Banks Act had also been assailed on the ground that the said provision is ultra vires of Articles 14 and 16 of the Constitution. The Central Government had issued a circular dated 26.11.75, laying down the scales of pay and allowances applicable to the officers and employees to be appointed by the Regional Rural Banks. The Finance Ministry, Economic Affairs, Banking Division, had issued a communication on 29th of April, 1980 to all the Chairmen of the Regional Rural Banks in the country, deciding the pay-scales of the employees of the said Regional Rural Banks in exercise of power under the second proviso to Sub-section(1) of Section 17 of the Regional Rural Banks Act. The Government of India issued another similar communication by letter dated 5th of February, 1981. The grievances of the employees of the Regional Rural Banks was taken up on the Floor of the Parliament by some Members of the Parliament and Professor Madhu Dandavate had brought a private Bill to amend Section 17 of the Act. The Employees' Association and the Finance Ministry had several discussions on the problem, but yet as the employees were not satisfied with the decision of the Union Government, they approached the Court under Article 32. The Union Government as well as the Reserve Bank of India were averse to give parity in the matter of pay scales and allowances between the employees of the Regional Rural Banks and the employees of the Nationalised Commercial Banks. The tribunal of Justice Obul Reddi summarized the pleadings in chapter I, indicated the evidence in chapter II and datas, particulars and information furnished in

response to his questionnaire by the Chairman of the RRBs, sponsor banks and State Governments in Chapter III and formulated the points for determination in Chapter IV. The tribunal then went on examining the rival stand point and answered the questions posed. The tribunal came to hold:

"Indisputably, Commercial Banks and Regional Rural Banks carry on similar banking business and participate in the development of rural economy as partners in the rural development, acting as instrumentalities of the State in accordance with the Directive Principles of the Constitution. Establishment of RRBs is to fill in the vacuum in the economic development of the rural sector. It is a national objective in the direction of ushering in a welfare state. That the RRBs have brought about a socio-economic reformation in the lives of the small farmers, traders, agricultural labourers, artisans, SC/STs and weaker sections is borne out by the evidence on record."

10. On the question as to the scope and ambit of Section 17 of the Regional Rural Banks Act and whether proviso 2 to Section 17(1) of the Act offends Articles 14 and 16 in the context of Article 39(d) of the Constitution, the tribunal held that the employees of the Regional Rural Banks form a separate class under a separate statute and so are the employees of the Nationalised Commercial Banks. Since the Regional Rural Banks have been constituted under different statute, the officers and other employees of the Regional Rural Banks function in accordance with the requirements of that Statute and they thus form a separate class by themselves. The 2nd proviso to Section 17(1) is, therefore, not hit by Articles 14 and 16 of the Constitution. The 2nd proviso to Section 17(1) does not take away or limit the jurisdiction in view of the order of the Supreme Court to decide the question relating to pay, salary, other allowances and other benefits on the basis of the evidence on record, as the proviso is adaptable and supple, so as to extend its application to the facts and circumstances of the case. The tribunal found that the wage structure should be such that it should not be unduly below the paying capacity of the Bank at the top of the class nor unduly above the paying capacity of the bank at the bottom of the class, which is reasonably well-managed. The tribunal further held :

"The employees of the RRBs and the employees of rural branches of commercial banks have a common object, common purpose, common interest and community of action. Their duties and functions are similar and they perform the duties in concerted manner for the economic betterment of the weaker section of the society, thus contributing their own share towards the achievement of the national objectives as envisaged in the preamble of the Constitution and the Directive Principles of the State Policy. The fact that employers are different, should not obsess one's mind in applying principles of equity and justice."

11. The tribunal further held:

"It is crystal clear that the equation of posts under the second proviso to Sec.17(1) of RRB Act, has not been made taking into consideration or account the functions and duties of a B.D.O. or other employees of State Government and duties of the RRB employees. The most relevant factor to be considered while equating posts is the similarity of functions and duties in a comparable department or industry. Without

regard to the apparent dissimilarities, the Central Government erred in the matter of equation of the posts. The pay structure determined should have nexus or relation to not only the duties and functions of the Office one holds, but it should also be justly comparable with the posts in a cognate undertaking or sister industry. Equations are always made with reference to the qualifications, level of the post, nature, functions, duties and the position vis-a-vis similar posts with which they are equated."

12. Repelling the plea of the employer that financial viability should be the criterion in deciding the wage structure of the RRB employees, the learned tribunal held:

"The RRBs have brought about socio-economic revolution in the hitherto unbanked under-developed priority sector by ameliorating the poverty conditions of the under-privileged, SC/STs and other weaker sections of the society. That is the paramount objective of the Act. It should not be lost sight of the fact that the total losses suffered by rural branches of commercial banks is undeniably more than the total losses suffered by the RRBs. But the losses of the rural branches of commercial banks are made up by the other branches in semi-urban and urban areas and the RRBs unfortunately for them cannot transfer the losses to their sponsor banks. The object and purpose is the economic development of the target groups and the achievements in that field certainly outweigh considerations of viability or losses. When the losses are on the increase even in the rural branches of commercial banks, the RRBs alone cannot be singled out to bear the cross. I can find no better authority than the Chairman of the NABARD who categorically stated that the "ghost of profitability" should not haunt us in judging the performance of the RRBs. Establishment of RRBs is a national commitment in the direction of ushering in a welfare State and that is a mandate of the Constitution. It is in fulfillment of hopes and aspirations aroused in the preamble and the Directive Principles of the Constitution that the RRB Act has been enacted and the performance of such institutions in furtherance of those principles, shall not be judged from the curved angle of viability or from the point of view of a private money lender or businessman or from mere profit and loss statement."

13. It also came to the conclusion that there is no justification in equating the post of a Branch Manager and a Field Supervisor as of a comparable level with the duties of Block Development Officer or Extension Officer. It is not necessary to quote the other findings of the tribunal in its award. Be it be stated that pursuant to the decision of the award and in accordance with the directions of the tribunal that the award should be given effect to with effect from 1.9.1987, the RRB employees got the benefit of the pay-scales and other allowances as was prevalent in the year 1987 for the employees of the Nationalised Commercial Banks. Bearing in mind the nature of dispute that was referred for the adjudication of the tribunal and the findings arrived at, we will have to answer the contentions raised in these appeals. But before embarking upon the said exercise, it would be relevant to notice that the Union of India itself had filed an Interlocutory Application in this Court for certain directions and it was averred therein:-

"11. That the Central Government is very much alive to the need of wage revision in RRBs and is of the opinion that a wage revision in RRBs is long overdue. The setting up of Mahalik Committee in November, 1996 and suo-moto filing of an alternative package to this Hon'ble Court in May, 1999 is the testimony to the concern and responsibility felt by the Central Government. That it was in this context that discussions were held with the Unions to break the stalemate. Based on the discussions held with the Unions and keeping in mind the various factors affecting the wage revision as stated above, the Central Government now proposes the following package in the larger interest of RRBs, their employees and depositors.

(i) As a gesture of goodwill and keeping in mind the genuineness of the demand of the RRB employees, these employees may be granted new scales w.e.f. 01.4.2000 in the line with scales granted to commercial bank employees of equivalent level. For determination of equivalent level, the recommendations of Equation Committee shall be taken as the basis. This is going to be a step further as up till now RRB employees have been demanding new scales as per 6th Bipartite and Officers' wage revision settlement only. The new basic pay of each RRB employee as on 01.4.2000 would be determined by notionally granting the benefit of 6th and 7th bipartite settlement and officers' wage revision w.e.f. 01.11.1992 and 01.11.1997 respectively. The formula for fitment of salary in various scales may also remain the same as was adopted for commercial bank employees. Thus, as on 01.4.2000, the pay scales of the RRB employees would become equal to that of their counterparts in commercial banks."

14. In paragraph (14) of the said application, it was averred thus:

"(14). That the above proposal of the Central Government is intended to help in promoting industrial peace and bring litigation in this regard to an end. These proposals are being advanced without prejudice to the rights and contentions of the Government in the appeal. The Central Government proposes to determine under Second Proviso to Section 17 of the RRBs Act, the remuneration of officers and other employees appointed by the Regional Rural Banks in terms of these proposals shall be valid till the Central Government revise the remuneration of officers and other employees of RRBs afresh in exercise of its powers under the said proviso."

15. The aforesaid assertion unequivocally states that w.e.f. 1.4.2000, the pay scales of RRB employees would become equal to that of their counterparts in commercial banks by granting them benefit of the 6th and 7th bipartite settlements on the basis of which there had been revision of wage structure of the employees of the commercial banks on 1.11.92 and 1.11.1997.

16. On the contentions raised by the learned counsel for the parties, the first question that arises for consideration is whether the award given by Justice Obul Reddi and accepted by the State Government and given effect to, can be construed to mean that the pay scales and other emoluments of the Regional Rural Bank employees would stand automatically altered, as and when the pay structure of the employees of the commercial banks get revised, on the basis of the so-called

bipartite settlement between the employer and the employees of those commercial banks? The award no where indicated this course of action nor could it have indicated so, in view of the provisions of the Regional Rural Banks Act, conferring specific power on the Central Government to decide the pay structure of the employees of the Regional Rural Banks. The second proviso to Section 17(1) of the Regional Rural Banks Act, 1976 reads thus:

"Provided further that the remuneration of officers and other employees appointed by a Regional Rural Bank shall be such as may be determined by the Central Government, and, in determining such remuneration, the Central Government shall have due regard to the salary structure of the employees of the State Government and the local authorities of comparable level and status in the notified area."

The Legislature, therefore, while enacting a law for establishment and incorporation of Regional Rural Banks, conferred power on the Central Government for determining the remuneration of the officers and employees appointed by the Regional Rural Banks and that power conferred upon the Central Government by the legislature cannot be taken away by an award of a tribunal, constituted by the Central Government for redressing the grievances of the employees, which were pending before a Court of law. Even the prayer in the writ petition that had been filed in the Supreme Court was not for a declaration and mandamus that the employees of the Regional Rural Banks would be entitled to the same scale of pay as and when the pay structure of their counterparts in the nationalised commercial banks get revised. To construe the award of Justice Obul Reddi in the manner as was contended by the counsel, appearing for the employees of the bank would tantamount to making the second proviso to Section 17(1) of the Act nugatory, redundant and otiose and by no stretch of imagination the duties and powers conferred on the Central Government under the Act could be made nugatory by interpreting an award of a tribunal. The disputes raised before the Court being disputes on several questions of facts, the Court and the Union Government thought it fit to be adjudicated upon by a tribunal and the tribunal on discussion on materials, gave its award. The relevant findings of the tribunal which we have quoted earlier in this judgment does not in any manner even contemplate that the power and jurisdiction of the Central Government under the second proviso to Sub-section(1) of Section 17 would become redundant and the pay structure as decided in 1987, pursuant to the award of the tribunal in respect of the employees of the Regional Rural Banks would automatically get revised as and when the pay structure of the employees of the commercial banks get revised. On the construction of the award of Justice Obul Reddi and the provisions of the second proviso to Section 17(1) of the Act, we have no hesitation to hold that the revision of pay structure of the employees of the Regional Rural Banks could be made, only after the Central Government exercises its power under the provisions of the Act and determines the same. If however, the Central Government fails to discharge its obligation as in the case in hand, which would result in gross disparity between the pay-scales of the commercial banks and the Regional Rural Banks, then a mandamus could be issued to the Central Government for performance of its duties and the Central Government would be bound to perform its duties, taking into account all germane factors, including the factor of the subsequent pay revision of the employees of the Nationalised Commercial Banks.

The next question that arises for consideration is whether the financial condition of the Regional Rural Banks could be a vital consideration for the Central Government in determining the pay structure of the employees of the Regional Rural Banks? Both Mr. Rao, appearing for the bank as well as Mr. Salve, appearing for the Union of India had vehemently urged before us that the financial condition of the Regional Rural Banks is such that it would not be possible for the Union of India to give them the pay structure of the employees of the Nationalised Commercial Banks. In support of this contention, several decisions of this Court had been placed before us. In *Express Newspapers (Private) Ltd., and anr. Vs. The Union of India and Ors.*, 1959 S.C.R. Page 12, while deciding the Constitutional validity of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 and the legality of the decision of the Wage Board constituted thereunder purporting to act under Section 9 of the Act, no doubt construed Section 9(1) of the said Act and held that it was incumbent on the Wage Board to take into consideration the capacity of the newspaper industry to pay the rates and scales of wages recommended by it. The observation of this Court was in the context of construing Section 9(1) of the Act and the language used therein, which indicated the prevalent rate of wages for comparable employment. Under the Regional Rural Banks Act, while conferring power upon the Central Government to determine the pay structure of the employees of the Regional Rural Banks, there has been no whisper that the financial condition of the bank or capacity of the employer to pay, would be a germane consideration. The aforesaid decision, therefore is of no assistance to the appellant. In the case of *Standard Vacuum Refining Co. of India vs. Its Workmen and anr.*, , the question for consideration was whether the employees were entitled to Bonus? In that case the Industrial Tribunal, in a dispute held that the wages paid were fair but there was still a gap between the actual wage and the living wage and as such awarded bonus equivalent to five months' basic wage. When that award was assailed before the Supreme Court and a plea was raised that no bonus could be payable when the employees are being paid the living wage standard, the Court had observed while proceeding to examine the merits of the contention that the employees are being paid a living wage:

"Considerations of the financial position of the employer and the state of national economy have their say, and the requirements of a workman living in a civilised and progressive society also come to be recognised."

But the aforesaid observations bereft of the context in which the observations have been made, will be of no universal application and at any time would have no application to the case in hand, where the aforesaid contention raised on behalf of the employer was considered and negatived by the tribunal, appointed to decide the dispute between the parties and that award of the tribunal instead of being challenged, has already been implemented. In *The Hindustan Times Ltd., New Delhi Vs. Their Workmen*, , again an award of an Industrial Tribunal was subject matter of challenge before the Court. The dispute before the tribunal was in relation to the pay, dearness allowance, adjustments, leave rules, gratuity as well as the working hours and age of retirement. In considering the legality of the award and after referring to the earlier decision of the Court in *Standard Vacuum Refining Co.*, which we have already noticed, this Court had observed the difference between the minimum basic wage and the fair wage and above the same, the living wage and it is in that context, the Court, no doubt had made the observations that their exist need of considering the problem on an industry-cum-region basis and on giving careful consideration to the ability of the industry to

pay. But the aforesaid observations cannot be pressed into service in the case in hand, where the award of Justice Obul Reddi tribunal, unhesitatingly negated the aforesaid stand of the employer and came to the positive conclusion after elaborate discussions of the purpose for which these banks were established and how a case of very special nature concerning the employees of a banking industry, claiming parity with the salary structure of the employees of a sister banking industry is being considered and ultimately, the tribunal had observed that the Act has been enacted in fulfilment of the hopes and aspirations aroused in the preamble and the Directive Principles of the Constitution and, therefore, the performance of such institutions in furtherance of those principles is not required to be judged from the curved angle of viability or from the point of view of a private money lender or businessman or from mere profit and loss statement. At any rate, the aforesaid decision of the tribunal in the form of an award was implemented by the Central Government and, therefore, having implemented the same, it would not be permissible for the employer-bank or the Union of India to take such a plea in the present proceedings. In *Jacob M. Puthuparambil and Ors. Vs. Kerala Water Authority and Ors.*, the Court was considering the regularisation of employees serving for a reasonably long period having requisite qualification for the job. While indicating what the preamble of the Constitution obligates the State to secure to all citizens and while stating how the Directive Principles of State Policy engrafted in Part IV of the Constitution, reflect the hopes and aspirations of the people, the Court had observed:-

"This part, therefore, mandates that the State shall strive to promote the welfare of the people by minimising the inequalities in income and eliminating inequalities in status, facilities and opportunities; by directing its policy towards securing, amongst others, the distribution of the material resources of the community to subserve the common good; by so operating the economic system as not to result in concentration of wealth; and by making effective provision for securing the right to work as also to public assistance in cases of unemployment, albeit within the limits of its economic capacities."

It is this expression "within the limits of its economic capacities" in the aforesaid case on which Mr. Rao, the learned senior counsel for the bank strongly relied upon in support of his contention that the financial capacity must be held to be a vital factor in determining the wage structure of the employees of the Regional Rural Banks. We are afraid, this decision is also of no assistance to the contentions raised inasmuch as in the dispute between the employer and the employees which stood resolved by an award of the tribunal (Justice Obul Reddi), one of the contentions was whether the financial viability would be the sole criterion in deciding the wage structure of the RRB employees, which was point No. 10 for consideration before the tribunal and after an elaborate consideration of the relevant stand point as well as the evidence laid by the parties on the point, the tribunal ultimately observed:

"4.239. Now we are dealing with a case of special nature concerning the employees of a banking industry claiming parity with the salary structure of employees of a sister banking industry, which alone is comparable in terms of duties, functions and responsibilities. The RRB Act places special emphasis on the development of rural economy by providing credit and other facilities to productive activities in the rural

areas, particularly to small and marginal farmers, agricultural labourers, artisans and small entrepreneurs, and for matters connected therewith and incidental thereto. The reasons and objects of the Act provide a highway for the social welfare and common good of the rural poor living in the priority sector. The preamble of the Constitution envisages to all citizens social, economic and political justice. Article 38 in Part IV enjoins on the State to promote the welfare of the people and to bring about a social order where social, economic and political justice prevail in all the institutions of national life. In particular, the State is asked to strive to minimise the inequalities in income and eliminate inequalities in status. The RRBs have brought about socio-economic revolution in the hitherto-Unbanked under-developed priority sector by ameliorating the poverty conditions of the under-privileged, SC/ST and other weaker sections of the society. That is the paramount objective of the Act. It should not be lost sight of the fact that the total losses suffered by rural branches of commercial banks is undeniably more than the total losses suffered by the RRBs. But the losses of the rural branches of commercial banks are made up by the other branches in semi-urban and urban areas and the RRBs unfortunately for them cannot transfer the losses to their sponsor banks. The object and purpose is the economic development of the target groups and the achievements in that field certainly outweigh considerations of viability or losses. When the losses are on the increase even in the rural branches of commercial banks, the RRBs alone cannot be singled out to bear the cross. I can find no better authority than the Chairman of the NABARD who categorically stated that the "ghost of profitability" should not haunt us in judging the performance of the RRBs. Establishment of RRBs is a national commitment in the direction of ushering in a welfare State, and that is a mandate of the Constitution. It is in fulfilment of the hopes and aspirations aroused in the preamble and the Directive Principles of the Constitution that the RRB Act has been enacted and the performance of such institutions in furtherance of those principles, shall not be judged from the curved angle of viability or from the point of view of a private money lender or businessman or from mere profit and loss statements."

This conclusion of the tribunal has become final, the award in question not having been assailed and on the other hand having been implemented. In the aforesaid premises, it is a futile attempt on the part of the employer as well as the Union of India to re-agitate the dispute, which has already been resolved and has been given effect to. In our considered opinion, therefore, the aforesaid contention on behalf of the appellant cannot be sustained and it would no longer be open, either for the bank or the Union of India to raise a contention that in determining the wage structure of the employees of the RRBs, the financial condition would be a relevant factor.

The next question that arises for consideration is, what is the meaning of the expression "parity" used by the tribunal in giving its award and indicating "that the officers and other employees of the Regional Rural Banks will be entitled to claim parity with the officers and other employees of the sponsor banks in the matter of pay-scales, allowances and other benefits" in paragraph 4.425 of the award of the tribunal. It may be noticed at this stage that on behalf of the employees, a claim had been made before the tribunal for application of the principle "equal pay for equal work" and that

was negated by the tribunal, but all the same the tribunal directed to maintain a parity. The meaning of the word "parity" in the Concise Oxford Dictionary is equality; being at par; fact of being even or odd. In Law Lexicon Dictionary, the word "parity" has been defined to mean being on a par with; analogy; close similarity (as) by party of reasoning. In Webster Comprehensive Dictionary, the expression "parity" has been defined to mean equality, as of condition or rank; equivalent position; equal value; close resemblance. In the 'Words and Phrases' Volume 31, the word "parity" means act providing for road construction to bring each country in state to "parity" required all counties to be brought in same condition regarding aid in road building, "parity" meaning equality. In view of the definition of the aforesaid expression "parity" and in the context in which the tribunal came to hold that the employees of the Regional Rural Banks would be entitled to claim a parity with the employees of the Nationalised Commercial Banks, the Union Government, while exercising its power under the proviso to Sub-section(1) of Section 17 would be guided by the aforesaid conclusion of the tribunal and will not be justified in deciding the pay structure for the employees of the Regional Rural Banks, which would bring in disparity between the two groups of employees, even though there may be a slight variation in the pay structure. As has been stated earlier, the aforesaid direction to maintain parity was duly given effect to and the employees of the Regional Rural banks were given the pay structure applicable to their counter parts in the Nationalised Commercial Banks w.e.f. 1987, though subsequently in 1992 and 1997, there had been revision in the pay structure of the employees of the Nationalised Commercial Banks. Though, we have upheld the contention of the appellant with regard to the power of the Central Government to decide the pay structure of the employees of the Regional Rural Banks, yet there cannot be any doubt that in so deciding, the Central Government would be duty bound to maintain the parity with the pay structure of the employees of the Nationalised Commercial Banks in the same sense and spirit as Justice Obul Reddi decided and as was given effect to by the Union Government in the year 1987.

In the light of the conclusions arrived at by us, the contention of Mr. Sanghi that the very idea of the employer to appoint a fresh Committee for re-determination of the pay structure of the employees of the Regional Rural Banks is nothing but an attempt to get over the effect of the grant of parity under Justice Obul Reddi Tribunal, is of great substance. It has to be borne in mind that the tribunal has devoted a considerable time and has considered all aspects of the dispute between the parties and the notification itself of the Union Government in appointing the tribunal, indicated that the decision of the tribunal shall be final and binding. In this view of the matter, the conclusions arrived at on different questions raised by the tribunal, cannot be assailed indirectly by taking recourse to a procedure either by the Union Government or by the Bank. Though, we have no hesitation in coming to a conclusion that the Union Government possesses the power to determine the pay structure in accordance with the second proviso to Sub-section(1) of Section 17 and , therefore, that power has to be exercised soon after any pay revision of the employees of the Nationalised Commercial Banks is effected and while exercising that power, the Union Government should try to maintain the parity between the pay structure of the employees of the Regional Rural Banks and the employees of the Nationalized Commercial Banks.

In view of the aforesaid conclusions of ours on the different contentions raised and in view of the fact that the Union of India in its Interlocutory Application had already indicated that the employees of the RRBs will be granted the new scales w.e.f. 1.4.2000 in the line with scales granted to

commercial bank employees of equivalent level, we direct that the said determination be a determination under the second proviso to Sub-section(1) of Section 17 of the RRB Act and as such the salary of the employees of the Regional Rural bank w.e.f. 1.4.2000 be determined accordingly.

We also further direct that for maintaining the parity between the employees of the commercial banks and the employees of the Regional Rural Banks, the said Union Government shall decide the question as to what would be the salary of the employees of the RRBs subsequent to the 6th Bipartite settlement having been given effect to, in case of employees of the commercial banks and with effect from what date and the benefit flowing from such decision be given to the RRB employees. The decision in question shall be taken within a period of six months from today.

Hereafter, as and when the pay structure of the employees of the nationalised commercial banks get revised on the basis of any bipartite settlement, the Union Government should take a decision so far as the employees of the Regional Rural Banks are concerned, within a reasonable time and bearing in mind the conclusions, we have already arrived at, so that the so-called parity could be maintained.

The impugned judgment of the Kerala High Court, must accordingly stand set aside. These appeals and Transfer Petition stand accordingly disposed of.