

Supreme Court of India

Shri Devendra vs Punjab National Bank on 26 November, 1993

Equivalent citations: 1994 SCC (1) 624, JT 1993 (6) 537

Author: Ahmadi

Bench: Ahmadi, A.M. (J)

PETITIONER:

SHRI DEVENDRA

Vs.

RESPONDENT:

PUNJAB NATIONAL BANK

DATE OF JUDGMENT 26/11/1993

BENCH:

AHMADI, A.M. (J)

BENCH:

AHMADI, A.M. (J)

VENKATACHALA N. (J)

CITATION:

1994 SCC (1) 624 JT 1993 (6) 537

1993 SCALE (4) 559

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by AHMADI, J.- The appellants joined the clerical cadre of the respondent bank against the posts reserved for Scheduled Caste/Scheduled Tribe candidates sometime between 1974 and 1977. As the bank felt the paucity of finding Scheduled Caste and Scheduled Tribe members to man its managerial cadres, it issued a Circular No. 386 dated May 30, 1978 inviting Scheduled Caste/Scheduled Tribe employees working in the clerical cadres to appear at the test for selection of Management Trainees. In response to this circular the appellants appeared at the test and were selected as Management Trainees, intimation whereof was conveyed to them by the letter dated October 30, 1978. While giving the intimation of their selection as Management Trainees, the said letter conveyed the terms and conditions which would apply to them. The relevant terms and conditions with which we are concerned have been set out in paragraph I as under:

"Pay & Allowances: Your pay and allowances will be as under:

First Year : Consolidated emoluments of Rs 700 p.m.

Second Year : Total emoluments payable to an officer placed in 'C' Grade at its initial stage i.e. Rs 700 basic p.m. plus other allowances admissible under the rules. Third Year : You will draw a basic pay of Rs 760 p.m. in the pay scale of Rs 700-30-790-35-930-40-1050 EB-40-1090-45-1315 provided you have passed bank's confirmation test. However, in the event of your failure to pass bank's confirmation test, you will continue to draw the same salary as in the second year of your service i.e. Rs 700 basic pay plus other allowances.

The commencement of the second year and third year of service would be extended by the period of leave availed without pay.

You will be considered for confirmation/promotion subject to your qualifying bank's confirmation test, passing Part I of Institute of Bankers Examination and satisfactory performance during training/probation."

It was clearly indicated in the said letter that the selected candidates will be on training for two years and would be considered for confirmation thereafter on their (a) getting satisfactory report about their training, (b) passing bank's confirmation test, and (c) passing Part I of the Indian Institute of Bankers' Examination. They were not to be considered for promotion until confirmation. These were the broad terms on which the appellants were selected as Management Trainees. It would be seen from the above terms that for the first year they were to receive consolidated emoluments of Rs 700 per month and in the second year they were to be paid total emoluments admissible to a 'C' Grade Officer at the basic or initial stage of Rs 700 and certain allowances admissible under the Rules. In other words although they were to be placed in the time scale of Grade 'C' at the basic minimum of the scale and were to be entitled to certain admissible allowances, they were not to be allowed the scale and annual increments till they entered the third year of training when they were to be placed in the time scale and granted two advance increments i.e. they were to begin at the basic salary of Rs 760 per month provided they successfully cleared the confirmation test. Now pursuant to their selection they commenced the training w.e.f. November 13, 1978. They were, therefore, entitled to consolidated emoluments of Rs 700 per month from November 13, 1978 to November 12, 1979; total emoluments admissible to an officer placed in 'C' grade at the minimum of the scale plus admissible allowances from November 13, 1979 to November 12, 1980 and on their successful clearance of the confirmation test they would have been placed in the regular scale of Rs 700-1315 at the basic of Rs 760 from November 13, 1980 and onwards. These were the terms on which they were selected as Management Trainees.

2. By a resolution dated July 19, 1973 the Government of India had appointed a Committee consisting of five members with Professor V.R. Pillai as its Chairman to standardise the pay scales, allowances and perquisites of the officers working in the 14 Nationalised Banks. This Committee, popularly known as Pillai Committee, submitted its report in May 1974. The Central Government thereafter appointed a Study Group of Bankers sometime in September 1976 to study the report and make suggestions for its implementation. This Study Group suggested certain modifications in the

method of implementation of the recommendations made by the Pillai Committee in its report submitted in January 1977. The Government accepted the report as modified by the Study Group of Bankers. The standardised pay scales suggested by the Pillai Committee in paragraph 5.13 of its report were as under:

"Grades	Scales
Top Executive	VIIRs 3000-125-3500
	VI Rs 2750-125-3250
Senior Management	V Rs 2500-100-2700
IV Rs 2000-100-2400	
Middle Management	IIIRs 1800-75-2250
	II Rs 1200-70-1550-75-2000

Junior Management I Rs 700-40-900-50-1 100-

EB- 1 200-60-1800."

These scales are linked to the quarterly average of 200 in the All India Working Class Consumer Price Index (base 1960=100) and it was decided that while the amount of neutralisation may continue to be 3% of pay for every 8 points rise till the index level rises to 272 with certain maxima fixed at each level, it was decided that the neutralisation may be limited to 2.5% for every 8 points rise thereafter subject to a maximum of Rs 20 as obtaining in the Central Government. On the acceptance of the recommendations of the Pillai Committee as modified by the Study Group of Bankers, the respondent-bank in exercise of powers conferred by Section 19 read with Section 12(2) of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970 formulated regulations in consultation with the Reserve Bank of India and with the previous sanction of the Central Government known as Punjab National Bank (Officers) Service Regulations, 1979. In continuation thereof the respondent-bank issued a Circular No. 492 dated January 16, 1980 prescribing the grades and categorisation of scales for its officers as extracted earlier. In the regulations framed by the respondent-bank no provision was made in regard to Management Trainees. Therefore, provision was made in regard to Management Trainees in paragraph 7 of the aforesaid circular in the following terms:

"Fitment in case of Management Trainees.- The Management Trainees who were drawing consolidated emoluments of Rs 700 per month as on June 30, 1979 will be placed in the Junior Management scale at basic pay of Rs 700 with effect from July 1, 1979. They will also be eligible to draw DA, HRA and other allowances as admissible in terms of the Service Regulations with effect from the appointed date.

In the case of Management Trainees who were placed in Grade 'C' before the appointed date, their basic pay will be refitted as in the case of other officers of the bank."

The appointed date according to the regulations was July 1, 1979. Therefore, since the regulations came into force w.e.f. July 1, 1979, the managerial cadres of the bank were brought over to the

revised pay structure according to the fitment formula evolved under the regulations. Regulation 13 provided that if any officer was aggrieved by the fitment accorded to him in the new scales of pay, he may prefer an appeal to the Committee constituted by the Board for this purpose. It may here be mentioned that the appellants had preferred an appeal before the said Committee but the same was rejected whereupon the appellants filed a Writ Petition No. 1337 of 1981 in the High Court of Delhi which was summarily rejected by a Division Bench of that High Court after hearing senior counsel for the petitioners. Feeling aggrieved by the summary dismissal of their petition the original petitioners have preferred this appeal by special leave.

3.The grievance of the appellants is that they should have been fixed in the revised scale applicable to the Junior Management Cadre and should have been granted the advantage of fitment like any other employee belonging to the managerial cadre. According to them if they had been granted the benefit of the fitment formula evolved under the regulations, they would have been placed at Rs 950 in the scale of Rs 700-1800 prescribed for the Junior Management Cadre. However, the respondent-bank did not give them the benefit of the fitment formula admissible to the managerial cadres of the bank and instead fixed them at the minimum of the basic scale of Rs 700 without granting them the benefit under the fitment formula. On account of this they suffered in two ways; firstly, they were not given the benefit of fitment formula and their salary was not fixed at Rs 950 under that formula and secondly their dearness allowance which would have been admissible to them at 93% of the basic wage shrunk to 51% under the revised DA formula, thereby resulting in a loss of over Rs 300 per month. In this way, contend the appellants, the Circular No. 492 dated January 16, 1980 providing for the fitment of Management Trainees in the revised scale has prejudiced them and being arbitrary, unreasonable and discriminatory it is hit by Articles 14 and 16 of the Constitution.

4.The respondents in their counter-affidavit have contended that by the letter of appointment dated October 30, 1978 it was made clear that they will receive consolidated emoluments of Rs 700 per month in the first year i.e. up to the end of November 13, 1979. It was also stated in the said letter that the terms and conditions set out therein were subject to revision by the bank on the implementation of the Pillai Committee report. They contend that under the terms of the said letter since the appellants were on consolidated emoluments of Rs 700 per month up to November 12, 1979 and were not placed in a regular time scale of pay, they were not entitled to be placed in the revised scales. In fact they would have drawn a consolidated amount of Rs 700 per month up to November 12, 1979 under the terms of the said letter of October 30, 1978 but by the fitment formula evolved for Management Trainees under the Circular No. 492 dated January 16, 1980 they were placed in a time scale of pay w.e.f. July 1, 1979 and thereby they have entered the regular time scale seven months in advance and have to that extent benefited by payment of all allowances admissible to officers on a regular pay scale. Besides, the respondents contend that under the appointment letter they were expected to be confirmed only after they had satisfied the requirements of paragraph 3 of that letter which, inter alia, require that they must among other things clear the confirmation test before being placed in the regular pay scale. All these requirements were given a go by on their being placed in the Junior Management Scale w.e.f. July 1, 1979. The respondent, therefore, contends that the grievance of the appellants is not well-founded; it is not correct to say that respondent had acted unreasonably or arbitrarily or had been guilty of discrimination in

evolving the fitment formula applicable to Management Trainees.

5. We think that the grievance made by the appellants is not wellfounded. In the first place on the appointed date, i.e. July 1, 1979, they were not in any regular time scale of pay governing the managerial staff of the bank. They were, therefore, not entitled to be placed in the corresponding revised scale adopted by the respondent-bank under its regulations pursuant to the implementation of the modified Pillai Committee report. They would have continued on the fixed emoluments of Rs 700 per month till November 12, 1979 under the terms of the letter of appointment in which case they would not have been entitled to allowances admissible under the relevant rules and regulations of the respondent-bank. Even after they entered the second year, they would have been entitled to emoluments payable to an officer placed in 'C' grade at the initial stage of Rs 700 basic per month plus allowances admissible under the rules but nothing beyond that. Instead they have been placed in a regular time scale w.e.f. July 1, 1979 and have been admitted to allowances payable to regular employees of the bank. Even under the terms of the letter of appointment they would have been entitled to two increments of Rs 30 each on their entering the third year in the time scale of Rs 700-1315. In other words they would have been entitled to an increment of Rs 60 on entering the third year. Under the revised scale they have been granted two increments of Rs 40 each, which is more. It is true that their second increment would have been available to them under the letter of appointment on November 13, 1980 when they would have entered the third year whereas under the fitment formula they become entitled to the second increment on June 30, 1981. The third increment has, therefore, been delayed to that extent but they have been compensated by the higher increment granted under the revised time scale. Besides, under the letter of appointment they would have been entitled to these benefits only after they had passed the confirmation test and not otherwise. There was no guarantee that all of them would have passed the confirmation test in the first attempt. There could have been several imponderables. Under the revised fitment formula they have been placed in a regular time scale without insisting on clearance of the confirmation test. Paragraph 9 of the letter of appointment also clearly indicated that the terms and conditions set out therein were subject to revision on implementation of the Pillai Committee Report or any government order, rules or regulations issued or framed from time to time. The appellants being in the service of the bank, albeit in the clerical cadre, were aware that the pay structure for the managerial cadres of the bank was under revision and the service conditions were being rationalised. But the learned counsel pointed out that under the terms of the appointment letter and the DA admissible before revision, the appellants would have received Rs 700 + DA which according to him would have come to Rs 649 whereas under the revised DA formula the DA stands reduced to Rs 336 and thus they have suffered a monetary loss of Rs 313 per month and this loss is more at the basic of Rs 760 per month. Assuming this to be correct, it must be remembered that the bank was revising its entire salary structure with effect from July 1, 1979 and hence the pay of each and every officer had to be placed in the revised scale. Unfortunately at the appointed date the appellants were still trainees and were not in a regular scale. Pay scale-wise they belonged to the clerical cadre. The bank had, therefore, to place them at the minimum of the revised scale from the appointed date. Their entry into the regular managerial cadre was dependent on several imponderables since they had to satisfy the requirements for confirmation. Therefore, the appellants cannot contend that the respondents had acted in an arbitrary manner or had discriminated against them by placing them in the revised pay scale w.e.f. July 1, 1979. They were at that point of time on consolidated emoluments

and not in a regular time scale and, therefore, the fitment formula admissible to those in the regular time scale was not applicable to them. The bank was entitled to place them in a regular time scale with a view to achieving uniformity in pay scales etc. in respect of managerial cadres of the bank. Therefore, before the appellants were confirmed as per the appointment letter they were switched over to the regular time scale with effect from the appointed date to bring about uniformity as rest of the employees in the regular time scale were also brought over to the revised scales w.e.f. July 1, 1979. They too were subjected to the revised DA formula by which the percentage of neutralisation was reduced to standardise the DA formula with other sectors including Central Government employees. We are, therefore, of the opinion that the bank cannot be said to have acted arbitrarily with intent to prejudice the appellants nor can it be said that it had deliberately discriminated against the appellants by evolving the fitment formula found in Circular No. 492 dated January 16, 1980 and thereby violated Articles 14/16 of the Constitution.

6. There is another angle from which the claim may be examined. If the appellants were not brought on the revised pay structure from the appointed date and were allowed to be governed by the terms of the letter of appointment, there would have been several anomalies. Suppose a person was appointed in the junior management cadre immediately after the appointed date, i.e. July 1, 1979, he would have been placed at the basic minimum of Rs 700 in the scale of Rs 700- 1,800. In two years he would have earned two increments and would have been at Rs 780 per month plus DA according to the revised formula. Now suppose the appellants on their clearance of the confirmation test would have been brought over to the revised pay scale under the fitment formula. They would have earned two increments and would be drawing DA under the old formula which would have been higher by more than Rs 300 per month as compared to the revised DA formula. In that case the total emoluments would have been much more and with the added benefit of the fitment formula, they would have drawn much more than their colleagues who may have joined immediately after the appointed date. That would have resulted in the anomaly of the seniors drawing less than their juniors. Such a situation would have resulted in injustice to the seniors who would certainly have raised demands for stepping up their salaries. That would have created ripples in other streams as well. The Bank, therefore, rightly decided to waive the requirement of clearing the confirmation test and advisedly brought them over to a regular pay scale. We, therefore, find it difficult to find fault with the action taken by the bank, which action was bona fide and not arbitrary.

7. Besides, it must also be realised that the appellants had no right to insist that they should be retained under the old pay scale when the entire staff was being brought over to the new pay structure. If any such right is recognised, employees in regular pay scales may also like the fitment in new scales postponed till they reach a particular stage in the existing time scale of pay which is most beneficial to them. Such a situation cannot be permitted as it would result in umpteen difficulties and would disturb both the horizontal and vertical relativities of the revised pay scales.

8. For the above reasons we do not entertain this appeal and dismiss the same but with no order as to costs. We may, however, make it clear that the respondent-bank will not recover if any excess payment is made which was stayed by this Court's order dated December 7, 1982.