

Supreme Court of India

V. Mahadevan And Others vs D.C. Aggarwal on 17 August, 1993

Equivalent citations: AIR 1994 SC 961, JT 1993 (4) SC 571, (1993) IILLJ 1157 SC, (1994) 1 MLJ 40 SC, 1993 (3) SCALE 480, 1993 Supp (4) SCC 4, 1994 (3) SLJ 26 SC

Author: R Sahai

Bench: S Pandian, R Sahai

ORDER R.M. Sahai, J.

1. This appeal is directed against issuance of notice in Contempt Petition filed by the respondent against Managing Director, State Bank of India, Central Office, Bombay, Chief General Manager, State Bank of India, Chandigarh and Managing Director, Central Office, Bombay by the High Court of Punjab and Haryana as an abuse of process of court which has seriously prejudiced the appellants in complying with the judgment and orders passed by this Court and High Court.

2. The respondent a senior officer in the State Bank of India had filed a petition before the High Court for quashing the order dated 14th November 1987 imposing penalty of reduction in rank from scale VI to the bottom of scale IV. The petition was allowed and the order dated 31st October 1987 passed by the Disciplinary Authority was quashed and the bank was directed not only to reinstate him, pay all allowances but also to grant him consequential benefits. This order was affirmed by a Division Bench of that Court. In an appeal filed in this Court we refrained from entering into merits as we were of opinion that in view of the finding recorded by the Disciplinary Authority that the action of the respondent did not cause any harm to the bank nor he gained anything out of it, the order passed by the High Court quashing the proceedings for procedural errors was well founded. On 29/30th October 1992 the respondent filed contempt petition in the High Court which was withdrawn on the next day. On 7th November 1992 letter was issued posting him as Deputy General Manager State Bank Staff College, Hyderabad. On 12th November 1992 the Bank filed a Review Petition of our order on which notice was issued. On 23rd November 1992 the respondent filed another contempt application in the High Court. On 28th December 1992 the bank issued notice to the respondent for continuing inquiry proceedings from the stage it was held invalid. On 22nd January 1993 notice was issued by the High Court in Contempt Application, It is against this order that the special leave petition was filed. When it was listed before us we felt that considering the nature of allegations it was not proper for the bank to pursue the matter. We were also of opinion that posting of respondent to Hyderabad was not fair. Nor was it proper to deny promotional benefits to him. The learned Additional Solicitor General stated earlier that so far consequential benefits were concerned the bank was willing to consider his claim for promotion to higher scale in accordance with rules. Now an affidavit has been filed on behalf of the appellant that such committee was constituted but in interview held in Bombay the committee did not find the respondent to be fit for being promoted to higher scale in accordance with policy of the bank. The learned Additional Solicitor General further stated that the bank was willing to drop the proceedings which had been initiated after the judgment was delivered by this Court and they have also posted the respondent as Deputy General Manager, Chandigarh.

3. Long arguments were advanced both on behalf of the appellants and the respondent. Maintainability of the appeal was also challenged. We do not propose to enter into any of these

aspects as we are of opinion that in view of the statements made by learned Additional Solicitor General the continuance of contempt proceedings in the High Court would not be in interest of justice. Main grievance of the respondent that survive is for promotion. From the records produced by the learned Additional Solicitor General we find that the committee which interviewed comprised of two of the persons against whom the respondent had filed contempt petition in the High Court. They are appellants in this Court. This, in our opinion, was neither proper nor fair. Those officers who are occupying very high position in the bank in all propriety should have withdrawn from the committee constituted for this purpose. We may not be understood as imputing any bias to them. But in our opinion the principle of fairness required that they should not have sat on the board. For these reasons we decide these appeals by issuing following directions:

(i) The statement of the learned Additional Solicitor General is accepted that no fresh enquiry shall be held against the respondent for the act or commission for which action was taken against him which resulted in reduction from rank in 1987. Notice dated 28th December 1992 shall stand withdrawn.

(ii) The State Bank of India shall re-consider the claim of promotion of the respondent to higher scale in accordance with rules. We do not express any opinion on the question if interview for higher scale is necessary and if there was any valid justification for not promoting the respondent whose record prior to these proceedings is unblemished but if under the policy framed by the bank and followed in other cases Constitution of a committee and interview is necessary then the committee be constituted but the Managing Director, State Bank of India, Central Office, Bombay and Managing Director, (Personnel), State Bank of India, Central Office, Bombay who are appellants in this Court may not be its members.

(iii) The committee shall be constituted within three weeks from today which shall decide if respondent was entitled to be promoted to higher scale in which his juniors are working as we are informed that the respondent is reaching his age of super annuation. In case the committee does not find the respondent suitable for promotion it shall give reasons for the same.

(iv) In view of these facts and circumstances the contempt proceedings in the High Court shall stand dropped.

4. Parties shall bear their Own costs.