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N.V. SUBBA RAO
v.
CORPORATION BANK AND ORS.

NOVEMBER 30, 2006

B

[DR. AR. LAKSHMANAN AND TARUN CHATTERJEE, JJ.]

Service Law:

C

Pension and Gratuity—Dismissal order by employer revised to that of reversion to the post of clerk—Reinstatement on the post of Clerk as per order of High Court—Appeal to this Court seeking to treat the suspension period for reckoning pension and gratuity—Held: Employee entitled to the benefits of pension and gratuity from the date of suspension till the date of reinstatement.

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Appellant was suspended and consequently dismissed by the respondent-Bank. The dismissal order was modified to that of reversion to the post of clerk as agreed to by both the parties before High Court. On the judgment of High Court, appellant was reinstated as a Clerk.

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Present appeal is limited to the question whether the appellant was entitled to treat the suspension period for reckoning the pension and gratuity.

Disposing of the appeal, the Court

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HELD: When the order of dismissal is set aside and the appellant is reverted to the post of clerk he will be entitled to the service benefits including pension and gratuity available to the said post. It cannot be said that appellant will be entitled to the benefits only for the period from the date of suspension till the date of dismissal. The respondent-Bank is directed to treat the suspension period from the date of suspension till the date when he was reinstated as a Clerk, for reckoning pension and gratuity only. [878-F-H; 879-A-B]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5601 of 2006.

From the Judgment and final Order dated 4.6.2002 of the High Court

H

of Judicature, Andhra Pradesh at Hyderabad in W.A. No. 1354/2000.

Roy Abraham, Ms. Seema Jain and Himinder Lal for the Appellant.

Dhruv Mehta, Harshvardhan Jha, Yashraj Deora and MannoJ Mehta (for M/s. K.L. Mehta & Co.) for the Respondents.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. Leave granted.

Heard Mr. Roy Abraham, learned counsel for the appellant and Mr. Dhruv Mehta, learned counsel for the respondents. We have perused order impugned in this appeal. The learned counsel appearing for the Corporation Bank submitted before the High Court that the Management had decided to revert the appellant to the lowest post of clerk by revising impugned order of dismissal. For the said proposal, the counsel for the respondent-employee had also submitted before the High Court that the employee was agreeable to accept the punishment of reversal to the lower post. In view of the submission made as above, the High Court has not gone into the merits of the case and disposed of the same on the said submissions. On the basis of the above order passed by the High Court, the appellant herein was reinstated as a clerk on 6.2.1997. The grievance of the appellant is that he was not given any benefit to the post in question namely the clerk from the date of suspension up to the date of reinstatement.

When the special leave petition came before this Court for admission, this Court on 19.12.2003, after condoning the delay, issued notice to the respondent-Bank.

On 3.4.2006, this Court passed the following order:

“Let the counsel for the respondents take instructions as to whether the bank will be willing to treat the suspension period for reckoning pension and gratuity of the petitioner. We make it clear that in all other respects we are not inclined to interfere with the impugned order.”

On 5.7.2006, after hearing the respective counsel, this Court passed the following order:

A “Heard Mr. L.N. Rao, learned Senior Counsel for the petitioner and Mr. Dhruv Mehta, learned counsel for the respondents.

On 3.4.2006, this Court passed the following order

B “Let the counsel for the respondents take instructions as to whether the bank will be willing to treat the suspension period for reckoning pension and gratuity of the petitioner. We make it clear that in all other respects we are not inclined to interfere with the impugned order.”

C Mr. Dhruv Mehta, appearing for the respondent-Bank, placed before us a letter dated 30.6.2006 received by him in regard to the above direction. The letter is thus placed on record.

D It is seen from the letter that the competent authority of the respondent-Bank is not agreeable to treat the suspension period of the petitioner herein for reckoning pension and gratuity. Therefore, we have to hear the parties in regard to only question as to whether the suspension period can be treated for reckoning pension and gratuity. Both the parties will be at liberty to address arguments only on this issue.

E Post the special leave petition for final disposal on 29th August, 2006.”

Since the Bank was not agreeable to treat the suspension period of the appellant for reckoning pension and gratuity, we heard the parties in regard to the only question as to whether the suspension period can be treated for reckoning pension and gratuity. We heard both parties at length.

F In the instant case, the appellant was suspended on 3.7.1985 and dismissed from service on 28.7.1988. Thereupon, the said order of dismissal was modified to that of reversion to the post of clerk as agreed to by both the parties before the High Court. Now, the only question is whether the appellant is entitled to treat the suspension period for reckoning the pension and gratuity. It is not in dispute that no service benefit as clerk was given to the appellant from the date of suspension till the date of reinstatement. When the order of dismissal is set aside and the appellant is reverted to the post of clerk, we are of the view that he will be entitled to the service benefits including pension and gratuity available to the said post. Mr. Dhruv Mehta
H submitted that the appellant, if at all will be entitled to the benefits only for

the period from 3.7.1985 to 28.7.1988. There is no merit in the said submission. A

We, therefore, direct the respondent-Bank to treat the suspension period from 3.7.1985 to 6.2.1997 for reckoning pension and gratuity only. The appeal stands disposed of on the above terms. There shall be no orders as to costs.

K.K.T.

Appeal disposed of. B