

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22ND DAY OF MARCH 2011

BEFORE:

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No. 20034 OF 2003 (S-RES)

BETWEEN:

1. All India Regional Rural Bank
Employees' Association,
Golders Green, Ground Floor,
F.G. Block I, Najrul Islam Avenue,
(V.I.P. Road) Kaikhali,
KOLKATA – 700 052.
West Bengal represented by
Its Organising Secretary
2. K.M. Gurumurthy
S/o Anantha Joshi
Aged about 42 years,
Working as Clerk at Tungabhadra
Gramin Bank, Sanganakal Branch,
Bellary – 583 103,
Karnataka State.
3. Ganapathi Hegde
S/o Visveswara Hegde,
Aged about 48 years,
Working as Officer at
Tungabhadra Gramin Bank,
S.G.Nagar Branch,

Bellary – 583 102,
Karnataka State.

... PETITIONERS

(By Shri. M.N. Prasanna, Advocate)

AND:

1. Union of India
By its Secretary to Government,
Ministry of Finance,
Department of Economic Affairs,
(Banking Division), Jeevan Deep,
Parliament Street,
New Delhi – 110 001.
2. National Bank for Agriculture and
Rural Development, C-24,
G Block, Bandra Kurla Complex,
Bandra East, Mumbai – 400 951
Represented by its Chief Manager.
3. Pragathi Gramina Bank
A body constituted under the
Regional Rural Banks Act, 1976
Having its Head Office at 32,
Sangankal Road, Gandhinagar,
Bellary – 583 103

Represented by its Chairman.

(Amended as per order
dated 31.10.2008)

... RESPONDENTS

(By Shri. D.L.N. Rao, Senior Advocate for Shri. T.R.K. Prasad, Advocate for Respondent No.3, Shri. Kalyan Basavaraj, Advocate for Respondent No.1, Respondent No.2 Served)

This Writ Petition is filed under Article 226 of the Constitution of India, praying to quash clause (iv) and clause (v) of the Government Order F.No.7/(5)/95-RRB dated 17.04.2002 vide Annexure-D, insofar as it denies revised house rent allowance from 01.11.1992 and 01.11.1997 and insofar as it denies revised house rent allowance from 01.11.1992 and 01.11.1997 and insofar as it denies all other allowances retrospectively and insofar as it makes it subject to revision by sponsor banks as contrary to nit award, contrary to the directions issued by this Hon'ble Court and the Hon'ble Supreme Court and as illegal.

This petition having been heard and reserved on 08.03.2011 and coming on for pronouncement of orders this day, the Court delivered the following:-

ORDER

Heard the learned counsel for the petitioners and the respondents.

2. The petitioners have a common grievance and since common questions of law are said to arise, this petition is jointly filed by them. The first petitioner is a Trade Union of employees working in the Regional Rural Banks (hereinafter referred to as

the 'RRBs' for brevity) all over the country. The second petitioner is a clerk working in Thungabhadra Gramina Bank, now known as Pragathi Gramina Bank, which is a body established under the Regional Rural Banks Act, 1976 (hereinafter referred to as 'the 1976 Act' for brevity). Petitioner no.3 is an officer working in the same Bank. The Regional Rural Banks (hereinafter referred to as the 'RRBs' for brevity) were established with a view to develop the rural economy by providing for the purpose of development of agriculture, trade and commerce to benefit small and marginal farmers, the agricultural labourers and artisans. Every RRB is sponsored by a commercial bank which is called as a 'sponsor bank'. As on the date of the petition, there were 196 RRBs, each of which was sponsored by other public sector banks. The remuneration of officers and other employees appointed by the RRBs in terms of Section 17(1) of the 1976 Act was as determined by the Central Government.

It is pertinent to mention that an employee along with the first petitioner herein had filed a writ petition in WP 132/1984 before the Supreme Court of India, which was heard along with two other writ petitions of the year 1992. The petitions were filed seeking a direction against the Union of India and other authorities to fix the emoluments of the employees of the RRBs in conformity with the principle of 'equal pay for equal work' and depending on the industry-cum-region formula which was a well established principle in wage determination. A direction was sought to bring about parity in pay, allowances and emoluments between the employees of RRBs *inter se* and with those of employees of Nationalised Commercial Banks ((hereinafter referred to as 'the NCBs' for brevity). The Supreme Court, finding merit in the case of the petitioners therein, gave an option to the respondents either to appoint a National Industrial Tribunal to go into the claims of the RRB employees, or to accept the consequence of the petitions being allowed directing the parity in service conditions. The Union of India opted for the appointment

of a Tribunal and accordingly, the petitions were disposed of with the following directions :-

“We are happy to know that the Central Government had 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 Regional Rural Banks constituted under the Regional Rural Banks Act, 1976. The learned counsel for petitioners also agreed that a reference may be made to the proposed Tribunal. In view of the above, it is not necessary to pronounce on the questions of law raised in these writ petitions before us. We leave all the contentions open. The Central Government shall refer the dispute to the Tribunal, preferably to a retired Chief Justice of a High Court, within four weeks from to-day. We hope that the Tribunal will pronounce its award as expeditiously as possible. These writ petitions are disposed of accordingly.”

Pursuant to which, the Union of India, by a resolution dated 26.11.1987, appointed the National Industrial Tribunal, under the chairmanship of Justice S.Obul Reddi, Chief Justice (Retired) of the High Court of Andhra Pradesh.

Apart from the Union of India, the Reserve Bank of India, NCBs, State Bank of India, State Bank of Hyderabad and the RRBs participated before the Tribunal. The Tribunal, after recording elaborate evidence and hearing extensive arguments, gave its award on 30.4.1990. It was opined that the Commercial Banks and RRBs carry on similar banking business and that the duties and functions of the officers and other employees of RRBs are similar as those officers and other employees in the corresponding posts of rural branches of sponsor banks and that there was not much appreciable difference in their duties and functions and therefore, it was opined that it would be unjust and unreasonable to deny the RRB employees, parity in scale of pay as applicable in sponsor banks in comparable posts. It was further concluded that the financial liability of RRBs was an irrelevant criteria in extending the parity in service conditions between the employees of RRBs and NCBs. On receiving the award of the Tribunal, the Union of India appointed a Equation Committee in terms of the directions contained in the award. Two issues were

referred to the Committee namely, (1) equation of existing posts in RRBs with corresponding posts of comparable level in sponsor banks and (2) fitment in the new scales of pay, allowances and other benefits and corresponding posts. The Equation Committee submitted its report on 16.1.1991. The Union of India accepted the award as well as the Equation Committee's Report and issued directions to all RRBs to implement the award and the Equation Committee Report with effect from 1.9.1987. Pursuant to the said direction, the pay scales, allowances and other benefits were brought on par with the NCBs with effect from 1.9.1987. The wage revisions effected by virtue of Bi-partite settlements which governed the workmen of NCBs from time to time. But for a period from 1.11.1992 to 1.7.1993, it was sought to be denied to the RRB employees when there was a wage revision in respect of similarly situated employees of the sponsor banks by virtue of a Bipartite settlement. At this juncture, at the behest of the Central Government, the Reserve Bank of India appointed a committee on salary and allowances of employees of RRBs. The committee

recommended that the employees of RRBs are not entitled to parity with the corresponding employees of the sponsor banks.

The first and the third petitioners challenged the same before this court in a writ petition in WP 17905/1997. This court, by its order dated 11.11.1998 allowed the writ petitions and quashed the appointment of the committee and its report which had addressed the salary and allowances of employees of RRBs. A direction was issued to the Central Government to extend pay and allowances with effect from 1.11.1992 to all the employees of RRBs in accordance with the pay, allowances and benefits implemented in respect of employees of NCBs as per the Bipartite settlements.

In the meanwhile, the employees of South Malabar Gramin Bank had approached the High Court of Kerala by way of a petition in O.P.No.1871/1997 seeking similar reliefs as in the aforesaid writ petition. The same was allowed by a learned Single Judge of the Kerala High Court and an appeal filed by the

management was dismissed by a Division Bench by an order dated 25.11.1998. The same was carried by way of a Special Leave Petition before the Supreme Court. The first petitioner herein was permitted to intervene in the Special leave Petition and the said petition was ultimately disposed of by an order dated 31.1.2001 confirming the findings of the Kerala High Court and court as well to the extent that the employees of the RRBs are entitled to parity with the corresponding employees of the sponsor banks and that they were entitled to identical wage revision as and when given to the employees of the sponsor banks. It was however held that such revision would not be automatic and that within a reasonable time of revision being granted in the sponsor banks, the Central Government would necessarily have to issue orders under Section 17 of the Act keeping in view the principle of parity and the findings of the Tribunal that the employees of RRBs are entitled to parity with the corresponding employees of the sponsor banks. The apex court took note of the fact that during the pendency of the

litigation, workmen and officers of the NCBs had been granted further wage revisions with effect from 1.11.1997 pursuant to the Seventh Bipartite settlement. Therefore, it followed that the said wage revisions were to be granted to the employees of the RRBs

The first respondent thereafter, in order to implement the directions of the Supreme Court, passed an order dated 11.4.2001. It is the contention of the petitioners that unfortunately the said order imposed several restrictions which virtually denied parity and was contrary to the directions of the apex court. As for instance, the payment of arrears was linked to profitability which was contrary to the opinion of the National Industrial Tribunal and further, the House Rent Allowance and City Compensatory Allowance were made prospective from 11.4.2001 when the same was to be made effective from the dates on which the revisions were granted to the employees of the NCBs pursuant to the Bipartite Settlements. Insofar as other allowances are concerned, the individual sponsor banks were directed to negotiate the same

with respective RRBs and after such negotiation, the revised allowances would be payable with effect from 1.4.2000.

Being aggrieved by the said order and a further order dated 25.4.2001, the first petitioner and several others filed applications seeking clarification before the Supreme Court by filing review petitions. All of which were disposed by a judgment dated 7.3.2002 and it was clarified thus by the apex court :-

"...The financial capacity of the Government cannot be pleaded as a ground for non-implementation of the directions of the court in as much as even in the matter of determination of pay scales of the employees of the Regional Rural Banks and maintenance of parity with their counterparts, serving under the sponsorer commercial banks, Justice Obul Reddi had not accepted the said plea and that award reached its finality. Since the financial capacity of the employer cannot be held to be germane consideration for determination of the wage structure of the employees and the parliament enacted the Act for bringing into existence these regional Rural banks with the idea of helping the rural mass of the country, the employees of such rural banks cannot suffer on account of the financial incapacity of the employer. We have no hesitation in coming to the conclusion that the issuance of the notification

dated 11.04.2001, by the Government of India cannot be held to be in compliance with the judgment and directions of the Court in Civil Appeal No.2218 of 1999. But, at the same time, we are of the opinion that the appropriate authority need not be punished under the provisions of the Contempt of Court Act, even if the notification is in direct contravention of the judgment of this Court, as we do not find a case of deliberate violation. While, therefore, we do not propose to take any action against the alleged contemnors, we direct that the employees of the Regional rural Banks should be paid their current salaries on the basis of determination made under the notification dated 11.04.2001, the new basic pay having been arrived at, as on 11.04.2001 should be immediately implemented and the employees should be paid accordingly. Paragraph (ii) and (iii) of the notification are quashed and the Central Government is directed to issue a fresh notification for proper implementation of the judgment of this Court.”

Thereafter, the Central Government passed a fresh order dated 17.4.2002, where again the House Rent Allowance was payable prospectively from 11.4.2001 and similarly other allowances were to be paid prospectively and there was again a direction that the sponsor banks should revise other allowances after negotiation with the RRB employees. While incidentally it

is pointed out by the petitioners that the workmen and officers of the sponsor banks had the benefit of House Rent Allowance as enhanced with effect from 1.11.1992 and again from 1.11.1997, pursuant to the Sixth and Seventh Bipartite Settlements respectively.

It is further contended that pursuant to a settlement dated 29.10.1993, pension was introduced as a retirement benefit in lieu of Contributory Provident Fund for employees of sponsor banks. This was made effective for those who had retired from services of the sponsor banks on or after 1.1.1986 with the actual payment of pension being made from 1.11.1993 and the same were given effect to by the Pension Regulations notified by the sponsor banks on 29.9.1995. However, the Central Government has not issued directions under section 17(1) of the Act, extending pension to employees of RRBs.

It is further contended that on 29.10.1993, a settlement was signed between the workmen of the sponsor banks and the managements agreeing for a computerisation increment and an

additional increment had been given to the employees of all the sponsor banks. This has not been extended to the employees of RRBs. The first petitioner has made several representations to the first respondent seeking extension of pension, grant of computerisation increment and enhancement of all other allowances. The Central Government had failed to resolve the issues and therefore, the present writ petitions.

3. The learned counsel for the petitioners would submit that insofar as the two decisions of the Supreme Court, namely, *South Malabar Gramin Bank vs. Co-ordination Committee of South Malabar Gramin Bank Employees' Union and South Malabar Gramin Bank Officers; Federation and others*, (2001)4 SCC 101, and *All India Regional Rural Bank Officers Federation and Others vs. Government of India*, (2002)3 SCC 554, referred to hereinabove, which arose out of petitions before the Kerala High Court by similarly placed petitioners, are concerned, the action of the first respondent in denying pension in lieu of Contributory

Provident Fund and in denying computerisation increment and other allowances in respect of the officers of the RRBs is arbitrary and unjust and contrary to the award of the Tribunal as well as the law declared by this court and the Supreme Court and therefore, contravenes Article 14, 16(1), 39(d) and 43 of the Constitution of India. It is contended that the very resolution of the Central Government appointing the National Industrial Tribunal clearly lays down that the decision of the Tribunal is final and binding. The Tribunal in unambiguous words having directed that the officers and other employees of RRBs would be entitled to claim parity with officers and other employees of the sponsor banks in the matter of pay scales, allowances and other benefits and the same having been made the subject matter of judicial interpretation, the opinion stands fortified that the employees of RRBs are entitled for parity with corresponding employees of sponsor banks in that regard. Therefore, the action of the respondents or rather the inaction of the respondents warrants interference of this court.

It is further contended that the Supreme Court having declared that the Central Government would be duty bound to maintain parity with the pay structure of the employees of the NCBs echoing the sense and spirit of the award by the National Industrial Tribunal and the respondents failing to abide by the same, is therefore grossly illegal and requires urgent correction. The learned counsel for the petitioner would however submit that there has been some progress during the pendency of this petition in the petitioners having derived further benefits from the respondents insofar as several reliefs claimed before this court are concerned and would submit that the implementation of pension as a retirement benefit in lieu of Contributory Provident Fund to the employees of the RRBs and the provision of computer increment are two issues which remain unresolved and therefore, would take this court through the positive directions issued by the Tribunal and the opinion expressed by the Supreme Court in the aforesaid judgments pertaining to the claim of the petitioners to assert that the petitioners are entitled to have the relief prayed for.

4. While the Senior Advocate Shri D.L.N.Rao appearing for the counsel for the respondent no.3 would submit that under the provisions of the Regional Rural Banks Act, 1976 and more particularly, under the Second Proviso to Section 17(1) of the Act, the Central Government is conferred with the power to determine the remuneration of the officers and employees appointed by the RRBs. The Supreme Court has held that the Central Government is the appropriate authority for determining the remuneration of RRB officers and employees and the Central Government had submitted before the Supreme Court in the above cases referred to by the learned counsel for the petitioner that as a gesture of good will and keeping in view the genuineness of the claim of the RRB employees, they were granted new scales with effect from 1.4.2000 in line with the pay scales granted to commercial bank employees of equivalent level and this has been implemented in terms of an order dated 17.4.2002 issued by the Central Government which is found at Annexure-D to the writ petition.

The National Bank for Agricultural and Rural Development (hereinafter referred to as the 'NABARD' for brevity) vide Circular No.34/100-04-2003 dated 30.1.2003 indicated that the Government of India had decided that computer increment is not admissible for employees and officers of the RRBs for the present. For the reason that the computerisation programme in RRBs was planned for 50% of the branches in five years and the infrastructure available in most of the branches was inadequate and computerisation was being provided as a facilitation measure and therefore, the award staff in RRBs were not eligible for computer allowance. It is therefore contended that the respondent – bank was bound by the directions given by the Government of India and NABARD in all the above matters.

It is contended that the employees and officers of the bank are eligible for the benefits of Provident Fund in terms of Employees Provident Fund and Miscellaneous Provisions Act, 1952 and also for gratuity. The retiral benefits are the same in all

the RRBs. Even in nationalised banks, a large number of employees are eligible for only two kinds of terminal benefits namely, Provident Fund Contribution (employer and employee) and gratuity. However, during the year 1995, the Government of India had permitted the employees of nationalised banks to opt for pension in view of employers contribution to Provident Fund and a section of the employees had opted for the same. It is understood by the third respondent – bank that even in nationalised banks including the sponsor bank of the third respondent, a majority of the employees are eligible for two retiral benefits namely, Employees Provident Fund and Gratuity as is made available to the employees of the third respondent – bank.

It is further contended by the learned Senior Advocate Shri D.L.N.Rao that insofar as the award of the National Industrial Tribunal or the subsequent judgments of the Supreme Court in the case of *All India Regional Rural Bank Officers Federation and Others vs. Government of India, (2002)3 SCC 554*, and the *South*

Malabar Gramin Bank vs. Co-ordination Committee of South Malabar Gramin Bank Employees' Union and South Malabar Gramin Bank Officers; Federation and others, (2001)4 SCC 101 are concerned, there is no reference at all in respect of the pensionary benefits. The focus is on matters pertaining to pay, allowances and other benefits, which have been duly provided to the petitioners.

The learned Senior Advocate would point out that there were a large number of petitions filed before this court, one of them was filed by All Karnataka Gramin Bank Employees Federation seeking a declaration that the provisions of the Employees Provident Fund and Miscellaneous Provisions Ordinance, 1995 as illegal and unconstitutional in writ petitions in WP 7907-7911 and 7913 of 1996 and connected petitions decided by a division bench of this court on 17.11.1997. Ordinance 13/1995. Vide Sections 5 and 6A and 6B were substituted dealing with the Employees Pension Scheme. The ordinance was replaced

by a Central Act No.25/1996, with effect from 16.11.1995. That was also the subject matter of challenge in those petitions.

It was canvassed that the provisions of the Act and the Scheme were confiscatory and unjust. It was urged that the scheme did not ensure full return of the capital as the rate of interest on pension was not on par with the interest given by the nationalised banks. The petitions however were dismissed. It is further contended by the learned counsel that the same was affirmed by the Supreme Court in the case of *Otis Elevator Employees' Union vs. Union of India and others*, (2003)12 SCC 68. Since the employees are governed by the said Employees Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees Pension Scheme, 1995, there is no injustice or illegality in the petitioners availing the benefit of the same in the absence of the Central Government taking a decision to introduce the Pension Scheme in the RRBs in lieu of employers contribution to the Provident Fund.

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5. The learned counsel for the petitioners, by way of reply, would point out that there is no impediment for the banks to arrive at a settlement in terms of the Memorandum of Settlement dated 29.10.1993 as was done in the case of managements and their workmen in respect of the sponsor banks. The learned counsel would furnish a summary statement, which is extracted hereunder, to impress upon the court the drastic variance with the benefit that the employees of the bank receive by way of pensionary benefits under the present Act and the scheme and the pensionary benefit derived by the employees of the sponsor banks, to demonstrate the disparity which is glaring.

Statement showing pension paid in RRB vis-a-viz sponsor Commercial Banks as on 31.12.2010

Sl. No.	Name	Designation	Date of Joining	Date of Retirement	No. of years served	Pension -able Salary	Pension as per 1995 Scheme	Pension as available in Sponsor Bank
1	S. Gopi Naik	Scale III Officer	13.09.1976	31.08.2010	34	45619	1675	22809
2	P. Virupaxappa	Scale II Officer	13.03.1977	30.06.2010	33	43974	1560	21987
3	Bheemaappa	Scale I Officer	18.04.1977	30.06.2010	33	38426	1560	19213

He would further point out that a Division Bench of this court, while dismissing a batch of writ petitions challenging the amendments to the Provident Fund Act and the Scheme, did observe that the dismissal of the petitions would not prevent the petitioners from approaching the appropriate and competent authorities for grant of exemption in accordance with the provisions of law applicable and the Rules framed as well as the orders issued.

He would point out that the apex court has taken note of the observations made by the High Court that the dismissal of the writ petitions would stand in the way of the managements concerned approaching the competent authorities for according exemption from the scheme by satisfying such authorities with particulars relating to their own scheme and substantiating that such benefits on the whole are not less favourable to the employees than the benefit provided under the Act or the Family Pension Scheme relating to the employees in any other similar

establishment. Further, the Supreme Court has also observed thus:-

“If the establishments on their own pension schemes apply to the authorities concerned, the authorities shall examine the same in the light of what we have stated above”

The learned counsel would therefore submit that it is only the disinclination on the part of the management to extend the benefit or to move the authorities in this regard that has deprived the petitioners of their just due. The contention that the award of the National Industrial Tribunal and the decisions of the Supreme Court do not take within their sweep the retirement benefits of the employees is not a tenable contention. It would include all benefits by virtue of employment and certainly the pensionary benefits and hence, the counsel would submit that the petitions be allowed with appropriate directions to the respondents.

6. In the light of the above facts and circumstances, it cannot be said that the endeavour undertaken by the National

Industrial Tribunal and the opinions expressed by the Supreme Court was to be restricted to bringing about parity in the pay, allowances and other benefits of the employees of RRBs on par with the employees of the sponsor banks. It necessarily would include pensionary benefits as well. It is patent that the employees of the RRBs would derive greater benefit if there is a pension scheme in lieu of the Employees Contributory Provident Fund and the Scheme thereunder. But, this would require the Central Government to pass an order apart from the modalities of any such pension scheme being worked out by the management of the RRBs. In the present scenario, when the management is reluctant to formulate any such scheme and pleads that there is no obligation on its part to extend such benefit to the employees of the RRBs, it would be necessary for this court to direct the Central Government to pass appropriate orders in order to set right the anomaly pertaining to the retirement benefits, availed by the RRBs vis-à-vis the employees of the sponsor banks. It would certainly be justified if the RRBs are exempted from the

provisions of the Employees Provident Fund Act, 1952 to bring about parity in pension and other benefits. The effort of the National Industrial Tribunal and the repeated directions of the apex court would not be completely implemented unless this is also carried out. Insofar as the claim for computer increment is concerned, the objection by the respondents to the same on the ground that in terms of a Circular of the year 1993, since the NABARD was of the view that a computer programme in RRBs is planned for 50% of its branches and that infrastructure available in all the branches is poor and inadequate cannot be a ground for denial of the same. The respondent – bank has not indicated the reason why it has not extended this increment even after the admitted circumstance that there is full computerisation of the bank since May 2007 and that it has extended the benefit of computer allowance while denying the computer increment from that date. Therefore, the petitioners have made out a case for receiving the benefit of computer increment which was provided to the employees of the sponsor banks.

Accordingly, the writ petition is allowed in part, in that, the several reliefs prayed for do not arise for consideration as admittedly, the petitioners have received those benefits which they had sought for, except the claim towards pension as a retirement benefit in lieu of Contributory Provident Fund under the Employees Provident Fund Act, 1952 and the scheme thereunder and the computer increment is concerned. Hence, the respondents are directed to take steps to ensure that the modalities are worked out for a pension scheme in line with the pension scheme formulated for the employees of the sponsor banks in terms of the Memorandum of Settlement dated 29.10.1993 at Annexure-E to the writ petition with such changes as would be appropriate and keeping in line with the present circumstances, including such other relevant criteria that could be reasonably agreed upon in consultation with the employees. Since the petition had been pending on board since the year 2003, the

respondents are directed to expedite the process and implement the same within a period of six months from the date of receipt of a copy of this order.

Sd/-
JUDGE

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