

Before Tejinder Singh Dhindsa, J.

V.K. KHANNA—Petitioner

versus

STATE OF PUNJAB AND OTHERS—Respondents

C. W. P. No. 3988 of 2015

December 21, 2017

State Bank of India (Subsidiary Banks) Act, 1959—Petitioner-retired Chief Manager, State Bank of Patiala, appointed Member, District Consumer Disputes Redressal Forum, claimed fixation of remuneration as last pay drawn minus pension—State Bank of Patiala—subsidiary of State Bank of India—held extended arm of Government, within the term “Corporation”—Bound by Government circular.

Held that State Bank of India was established under Section 3 of the State Bank of India Act, 1955 (for short to be referred as “1955 Act”) which is a parliamentary enactment. It was constituted to carry on the business of banking and other business in accordance with the provisions of the said Act.

(Para 10)

Further held that upon consideration of the various provisions of the Act, it clearly emerges that State Bank is a statutory Corporation established by the State Bank of India Act which is a Central Act.

(Para 13)

Further held that State Bank of Patiala constituted under a Central Statute, namely, State Bank of India (Subsidiary Banks) Act, 1959, being a subsidiary of State Bank of India which is an extended arm of the Government of India would, as such, fall within the term “Corporation”.

(Para 14)

Further held that the claim of the petitioner seeking remuneration as per last pay drawn minus pension would be covered in the light of clarification dated 17.1.2014, Annexure P5/2, issued by the Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Consumers Protection Act Branch.

(Para 15)

HC Arora, Advocate
for the petitioner.

Monica Chhibber Sharma, Senior Deputy Advocate General,
Punjab.

TEJINDER SINGH DHINDSA, J.

(1) Petitioner retired as Chief Manager, State Bank of Patiala. Vide order dated 26.7.2010, Annexure P3, petitioner was appointed as Member, District Consumer Disputes Redressal Forum, Ropar.

(2) Petitioner has filed the instant petition assailing the orders dated 17.4.2014 and 28.8.2014, Annexures P9 and P11 respectively, issued by the Registrar, State Consumer Disputes Redressal Commission, Punjab and whereby the claim of the petitioner for fixation of remuneration as last pay drawn minus pension has been declined.

(3) Learned counsel for the parties have been heard a length and pleading on record have been perused.

(4) The matter with regard to honorarium of members of the Punjab State Consumer Disputes Redressal Commission/ Members of First Additional Bench and District Consumer Forums came up for examination and order dated 30.10.2013 was issued by the Secretary to Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Annexures P5/1, and wherein the following decision was taken:

“Members who are appointed from judicial side or some other Government job, they can opt for fixed remuneration or they can get last pay drawn minus pension.”

(5) Apparently, the State Consumer Disputes Redressal Commission, Punjab vide communication, dated 5.12.2013, sought clarification in relation to order dated 30.10.2013, Annexure P5/1, from the second respondent i.e. Secretary to Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Consumers Protection Act Branch. It would be useful to extract hereunder the communication dated 5.12.2013, whereby clarification was sought:

“STATE CONSUMER DISPUTES REDRESSAL
COMMISSION, PUNJAB, DAKSHIN MARG, SECTOR
37-A, CHANDIGARH.

No.SCDEC/Pb/13/14189

Dated: 05/12/13

TO

The Secretary to Govt. of Punjab, Department of Food,
Civil Supplies & Consumer Affairs, Punjab, CPA
Branch, Chandigarh.

Sub: Clarification regarding honorarium/remuneration
admissible to the Members of the State Commission and
District Fora.

Sir,

I am directed to refer to order dated 30.10.2013 bearing
Endst.No.1/25/2010-1CPA/266-271 dated 31.10.2013
restoring provision No.6 contained in order dated 16.3.2012
issued vide Endst.No.1/25/2010-1CPA/158-163 dated
26.3.2012 and this Commission's letter
No.SCDRC/PB/12/11144 dated 21.08.2012 on the subject
cited above and to say that orders of the Government dated
16.03.2012 and 30.10.2013 are being implemented by fixing
the honorarium of the Members retired from the judicial
side or some other Government job, as per the clarification
issued vide Memo. 1/25/10-1 CPA/329 dated 3.8.2012.

However, there are cases where the Members have retired
from public sector undertakings such as Boards, Electricity
Board (now PSPCL etc.) Corporation, Nationalized Banks,
semi-government, Organization/ public sector undertakings.
Therefore, the expression 'Government job' needs
clarification to the effect whether the service rendered by
the Members in such like organizations falls within the
definition of the 'government job'.

It is, therefore, requested to kindly clarify as to whether the
expression 'government job' includes the service rendered in
some Board, Electricity Board (now PSPCL etc.)
Corporation, Nationalized Banks, Semi-Govt. Organization/
Public Sector Undertakings etc. so that the claim of

Members coming from these Boards / Corporations / Banks / Organizations can be considered.

Yours faithfully,
Sd/-
Registrar.”

(6) In response, a clarification was issued vide memo dated 17.1.2014, Annexure P5/2, which is in the following terms:

“GOVERNMENT OF PUNJAB
FOOD CIVIL SUPPLY AND CONSUMER AFFAIRS
DEPARTMENT
(CONSUMERS PROTECTION ACT, BRANCH)

To

Registrar,

Punjab State Consumer Disputes Redressal Commission,
Plot No.1037, Sector 37-A, Chandigarh.

Memo No.1/25/2010-1 C.P.A./148645/1

Dated, Chandigarh 17.1.2014

Subject: Circular regarding honorarium payable to the Members of District Consumer Forum and Punjab State Consume Disputes Redressal Commission. This has reference to your letter No.S.C.D.R.C. / Punjab / 2013/14189 dated 5.12.2013 on the above subject.

The aforesaid matter has been taken up with the Finance Department and the Finance Department has advised that the employees retired from Boards and Corporations in case of their appointment as Members of Punjab State Consumer Disputes Redressal Commission and District Consumer Forums, in case they desire, they may opt for consolidated honorarium or may give option for getting remuneration on the basis of last pay drawn on retirement minus pension which would regulate their remuneration.

This letter has been issued on the basis of advice received from Finance Department vide their letter No.12/13/2008-5VKS/1204, dated 1.1.2014.

Sd/-
Joint Secretary, Food Supplies.”

(7) The petitioner, who was drawing a fixed honorarium at the rate of Rs.18,000/- per month as Member, District Consumer Disputes Redressal Forum, Ropar, submitted an option dated 20.3.2014, Annexure P6, to be released honorarium as per last pay drawn minus pension. Petitioner also enclosed along with the option letter the requisite documents from his previous employer i.e. State Bank of Patiala. Such option stands declined vide impugned orders dated 17.4.2014 and 28.8.2014, Annexures P9 and P11.

(8) The short issue that arises for consideration is as to whether the expression “Corporation” as per clarification dated 17.1.2014, Annexure P5/2, issued by the State Government would take within its sweep even the State Bank of Patiala?

(9) State Bank of Patiala was constituted under a Central Statute, namely, State Bank of India (Subsidiary Banks) Act, 1959. Under such Act, the entire holding of State Bank of Patiala is with State Bank of India. As such, it would be necessary to examine the status of State Bank of India.

(10) State Bank of India was established under Section 3 of the State Bank of India Act, 1955 (for short to be referred as “1955 Act”) which is a parliamentary enactment. It was constituted to carry on the business of banking and other business in accordance with the provisions of the said Act.

(11) The matter as regards State Bank of India being a statutory Corporation established by Central Act, namely, the State Bank of India Act, 1955 and, thus, the appropriate Government in respect to the State Bank being the Central Government came up for consideration before a Division Bench of the Bombay High Court in the case of *State Bank of India* versus *Kalpaka Transport Co.Pvt.Ltd. and another*,¹ and it was held as follows:

“23. This being the legal position, we find that the State Bank of India and its subsidiaries are statutory Corporations. In making several appointments forming the structure of these Corporations, the Government's role is quite clear. Even in the matter of laying down policy involving public interest, the State Bank shall be guided by the directions given by the Central Government in consultation with the Governor of the Reserve Bank, and the Chairman of the

¹ AIR 1979 Bombay 250

State Bank of India. All such directions are to be given through the Reserve Bank, and if any question arises whether a direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.”

(12) Under Section 18 of the 1955 Act, it is provided that the State Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may, in consultation with the Governor of the Reserve Bank and the Chairman of the State Bank, give to it in the discharge of its functions and with regard to any such directions which are given by the Central Government through Reserve Bank, the decision of the Central Government as to whether the direction relates to matter of policy involving public interest has been made final. That apart, it is also provided that at no time, the share-holding in the State Bank of India by the Reserve Bank shall be less than 55% of the total share capital. State Bank is obligated to furnish returns to the Central Government including its profit and loss account and Auditor's report and report to the Central Government on its working and activities. Section 45 of the 1955 Act clearly lays down that no provision of law relating to the winding up of the Companies shall apply to the State Bank, and the State Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

(13) Upon consideration of the various provisions of the Act, it clearly emerges that State Bank is a statutory Corporation established by the State Bank of India Act which is a Central Act.

(14) State Bank of Patiala constituted under a Central Statute, namely, State Bank of India (Subsidiary Banks) Act, 1959, being a subsidiary of State Bank of India which is an extended arm of the Government of India would, as such, fall within the term “Corporation”.

(15) In view of the discussion above, this Court is of the considered view that the claim of the petitioner seeking remuneration as per last pay drawn minus pension would be covered in the light of clarification dated 17.1.2014, Annexure P5/2, issued by the Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Consumers Protection Act Branch.

(16) Accordingly, petition is allowed. The impugned orders dated 17.4.2014 and 28.8.2014, Annexures P9 and P11, are set aside.

(17) Directions are issued to release to the petitioner the financial benefits on the basis of fixing his honorarium while serving as member of District Consumer Disputes Redressal Forum, Ropar as last pay drawn minus pension as per option exercised by him.

(18) Needful be done within a period of three months from the date of receipt of a certified copy of this order.

Sanjeev Sharma, Editor