

A.N. Hebbar Vs Syndicate Bank

Court: Karnataka High Court

Date of Decision: Feb. 28, 2006

Acts Referred: Constitution of India, 1950 Article 226, 227

Hon'ble Judges: Cyriac Joseph, C.J.; K. Sreedhar Rao, J

Bench: Division Bench

Advocate: P.R. Ramesh, for the Appellant; Savkar, for the Respondent

Final Decision: Dismissed

Judgement

Cyriac Joseph C.J.

1. This appeal is filed against the judgment dated 27-1-2006 in W.P.No. 42635/2004 which was dismissed by the learned single Judge. The

appellant is the petitioner in the writ petition and the respondent is the respondent in the writ petition.

2. The appellant is an Officer in the Syndicate Bank-the respondent herein. As per Annexure-"A" dated 29-1-2004 the respondent formulated a

Scheme known as Syndicate Bank Special Leave Scheme-2004. All confirmed employees of the Bank who have attained minimum age of 45

years and above and completed 20 years of service in the Bank are eligible to avail the special leave. The special leave could be availed of to take

up Business/Vocation, Higher Education in India/Abroad, Medical Treatment or Personal Reasons. The special leave will be sanctioned for

minimum of two years and maximum of four years at a time which may be extended if requested by the employee at the discretion of the Bank.

The competent authority for sanctioning the leave under the Scheme is General Manager (Personnel). Applications should be made to the

competent authority through proper channel. It is specifically stated in Clause-E of the Scheme that the Bank retains the right to decline the request

of the employee without assigning any reasons. 3. The appellant submitted Annexure-"B" application dated 31-7-2004 requesting for special leave

for two years in terms of the above mentioned Scheme. The purpose of leave was stated as "personal reasons". The application of the appellant

was rejected by the competent authority as per Annexure-"F" communication dated 7-9-2004. Through Annexure-"F" communication the

appellant was informed that the competent authority had rejected his request due to administrative exigencies. He was also advised to report for

duty immediately failing which action would be taken as per Rules, Challenging Annexure-"F" communication, the appellant filed the writ petition

praying to quash Annexure-"F" dated 7-9-2004 and to direct the respondent to grant the petitioner special leave from 1-10-2004 in terms of

application dated 31-7-2004. The respondent opposed the prayers in the writ petition by filing a statement of objections and also an additional

statement of objections. In the statement of objections filed by the respondent it was stated that the competent authority rejected the application of

the petitioner along with other such applications due to administrative exigency. It was also stated that the rejection of the application was in the

light of renewed thrust on accelerated lending to rural sector and also the subsequent developments that transpired after the special leave Scheme

was brought into effect. The respondent denied the allegation of the petitioner that he was being singled out by the Bank while considering his

request for special leave. It was explained that the respondent was under tremendous pressure of improving its business on the rural front and was

thus in need of additional supervisory man power. Hence the respondent bank was not in a position to release its employees in supervisory

positions. It was also contended that the petitioner could not avail leave under special Scheme as a matter of right and that the respondent had

every authority to reject the request even without assigning reasons. In the additional statement of objections the respondent stated that at the

relevant point of time on account of the administrative requirement pertaining to special thrust on accelerated lending to rural/ agricultural sector, the

bank rejected applications for special leave from the petitioner and 31 other Officers. It was further stated that the bank rejected applications of

other 29 Officers also on the ground of administrative exigency. The respondent claim that the discretion vested in the authority under the Scheme

to decline the request of any employee had been exercised in a just and fair manner keeping in view the administrative requirements of the bank

which is in public interest.

4. The learned single Judge dismissed the writ petition observing that matters like these are not worthy of consideration in a petition under Article

226/227 of the Constitution of India. According to the learned single Judge, it is a matter between the employer and the employee and if" the

employer finds it not proper to sanction leave in a particular context to an employee like the petitioner, it did not warrant interference by the Court.

Aggrieved by the dismissal of the writ petition the petitioner has filed this appeal. We are inclined to agree with the learned Counsel for the

appellant that even though the respondent has the discretion to grant or reject the application for special leave, if the decision is arbitrary, such

arbitrary action of the respondent can be subjected to judicial review. Then the question is whether the action of the respondent in rejecting the

application of the appellant is arbitrary or not. In Annexure-"F" order it was stated that the appellant's request was rejected due to administrative

exigencies. In the statement of objections and the additional statement of objections the respondent has explained the administrative exigencies.

Thus the reasons for rejecting the application have been disclosed by the respondent, The reasons stated by the respondent cannot be said to be

irrelevant or unreasonable. It is also stated by the respondent that the appellant was not singled out while considering the applications for special

leave. The appellant was not the only person who was denied the special leave. Several other persons also were denied the special leave on similar

grounds. In such circumstances, it cannot be held that the impugned action of the respondents was arbitrary or illegal. Therefore, we do not find

any valid reason to interfere with the decision of the respondent to reject the appellant's application for special leave. In this view of the matter, the

dismissal of the writ petition does not call for any interference in appeal.

5. Learned Counsel for the appellant submitted that in spite of the advice contained in Annexure-"F" letter dated 7-9-2004 to the appellant to

report for duty immediately, he did not report for duty in view of the pendency of the writ petition and later in view of the filing of this writ appeal.

Consequent on the failure of the appellant to join duty the respondent has initiated disciplinary action against the appellant. The learned Counsel

submitted that the appellant may be permitted to avail of leave for the period in. question without pay and allowance. Learned Counsel also states

that the appellant is willing to report for duty immediately. Learned Counsel requested that appropriate direction may be given to the respondent in

this regard. However, these matters do not strictly come within the purview of this writ appeal. In this case, we are only concerned with the

correctness or validity of the rejection of the appellant's application for special leave. Therefore, the appellant will have to approach the

respondent itself for taking a lenient and sympathetic view on the above mentioned request made by the appellant. If the appellant promptly reports

for duty and makes any representation to the respondent, we have no reason to assume that the respondent will not consider the request in

accordance with law.

6. Subject to the above observations the appeal is dismissed.