



**IN THE HIGH COURT AT CALCUTTA**  
**Civil Appellate Jurisdiction**  
**APPELLATE SIDE**

Present:

**The Hon'ble Justice Tapabrata Chakraborty**  
**&**  
**The Hon'ble Justice Partha Sarathi Chatterjee**

**FMA 140 of 2015**

**Mallabhum Gramin Bank & Ors.**  
**Versus**  
**Rabindranath Murmu & Ors.**

*For the Appellants* : *Md. Mokaram Hossain,*  
*Mr. Razzak Hossain,*  
*Md. Naimul Islam.*

*For the Respondent* : *Ms. Nandini Mitra,*  
*Nos. 1 to 7.* *Mr. Sanjay Saha.*

*Hearing is concluded on* : *28<sup>th</sup> August, 2025.*

**Judgment On** : **12<sup>th</sup> September, 2025.**

**Tapabrata Chakraborty, J.**

1. The present appeal has been preferred by the Mallabhum Gramin Bank (hereinafter referred to as MG Bank) and its functionaries challenging the judgment dated 26<sup>th</sup> September, 2014 passed by the learned Single Judge in the writ petition being WP No.24421 (W) of 2005 which was preferred by the employees of the MG Bank and its Officers' Union along with its functionary challenging, *inter alia*, a memo dated 21<sup>st</sup> October, 2005



issued by Manager of the MG Bank on the issue of fitment of salary along with the corrigendum thereto and a memo dated issued 7<sup>th</sup> December, 2005 issued by the General Manager of the MG Bank relating to recovery of excess salary.

2. Records would reveal that the employees of MG Bank initially approached the Hon'ble Supreme Court by an application under Article 32 of the Constitution of India demanding revision of their pay scale and to bring the same at par with the scale of pay and other benefits of the employees of the Sponsoring Banks. By an order dated 1<sup>st</sup> September, 1987 the Hon'ble Supreme Court was pleased to direct the Central Government (hereinafter referred to as CG) to constitute a National Industrial Tribunal (hereinafter referred to as NIT) to go into the details of the claim of the employees. In compliance of the said order, the CG through its Ministry of Finance and Department of Economic Affairs (Banking Division) issued a memo dated 25<sup>th</sup> November, 1987 constituting a NIT which in turn was pleased to pass an award on 30<sup>th</sup> April, 1990 observing, *inter alia*, that the employees of MG Bank would be entitled to claim parity with the employees of Sponsoring Banks. However, the issues of consequential fixation of pay and appropriate fitment of new scales of pay and quantification of the actual benefits were left to be decided by the CG in consultation with such authority it may consider it necessary. Pursuant thereto, the CG appointed an Equation Committee (hereinafter referred to as the EC) to recommend appropriate measures to the Government. The EC upon thorough investigation issued recommendations on 16<sup>th</sup> march, 1991 and the same



were accepted for implementation by the CG *vide* memo dated 22<sup>nd</sup> February, 1991 issued by the Under Secretary to the Government of India. The award was accordingly made operative on and from 1<sup>st</sup> September, 1987. Subsequent thereto, such decision was reconsidered by the NIT Cell on 30<sup>th</sup> April, 1993 and the fitment of the employees was sought to be undone by the Chairman of the MG Bank *vide* memo dated 21<sup>st</sup> October, 2005.

3. Mr. Md. Mokaram Hossain, learned advocate appearing for the appellants argues that correction of mistake in calculation of pay is an inherent right of an employer and since the alleged overdrawn is nothing but a consequence of recalculation or correction of mistake in calculating the fixation of pay, the learned Judge ought not to have prevented the appellants from rectifying such mistakes.

4. Drawing our attention to the fitment slips, Mr. Hossain submits that while availing the benefits, the employees had undertaken, *inter alia*, that '*this fitment is subject to change in case of any discrepancy detected later on*'. In view thereof, the respondents could not have challenged the memo dated 21<sup>st</sup> October, 2005 more so when the memo dated 22<sup>nd</sup> February, 1991 does not impose any fetter towards rectification of mistaken implementation of fitment policy.

5. He further contends that the memo dated 22<sup>nd</sup> February, 1991 addressed to the Chairman of the Regional Rural Banks specifically provided in Clause 4(VI) *inter alia* that '*if Junior Clerks-cum-Cashiers and were promoted as Sr. Clerks-cum-Cashiers and Field Supervisors as*



*Officers/Branch Managers after the appointed date (1.9.1987), then the Pay + DA in the promoted post is protected by grant of personal allowance. Personal allowance so granted should be adjusted in the manner indicated in paragraph 4(v)'. In Clause 10 of the said memo it was, inter alia, provided that the allowances, if any paid in excess would be recovered from the employee from the arrears calculated.*

6. He further argues that in terms of the memo dated 22<sup>nd</sup> February, 1991, the MG Bank formed a NIT Cell to implement the Sponsor Bank pay scale with effect from 1st September, 1987 i.e., the appointed date in line with the said memo. The said Cell in its meeting 30<sup>th</sup> April, 1993 reconsidered the earlier fitment and erroneously recommended fitment contrary to the circulars issued by the Indian Bank Association.

7. According to Mr. Hossain, the learned Judge did not adjudicate the issues involved in the writ petition and the memo dated 21<sup>st</sup> October, 2005 along with the corrigendum thereof were set aside in a cryptic manner without considering the instructions issued by the National Bank for Agricultural and Rural Development (hereinafter referred as NABARD).

8. Drawing our attention to Clauses 8, 9, 15 and 16 of the memo dated 22<sup>nd</sup> February, 1991, Ms. Nandini Mitra learned advocate, assisted by Mr. Sanjay Saha, learned advocate, appearing for the writ petitioners/respondents submits that fitment benefits granted in consonance with the NIT award and the recommendations of the EC were sought to be recovered abruptly by the memo dated 21<sup>st</sup> October, 2005 in an illegal and arbitrary manner. Such decision could not have been adopted



without obtaining appropriate interpretation and sanction from the Ministry of Finance (Banking Division), Government of India through NABARD, as provided in clause 16 of the memo dated 26<sup>th</sup> February, 1991. Such decision thus suffers from a jurisdictional error.

9. She argues that wages paid to an employee by the employer voluntarily, without there being any element of fraud or misrepresentation attributable to the employee, cannot be recovered subsequently on a purported plea of mistaken fitment.

10. We have heard the learned advocates appearing for the parties at length and we have given our anxious consideration to the facts and circumstances of the case.

11. A legal tussle had spiraled up to this Court seeking a quietus to the primary issue as to whether after implementation of the award and the grant of the consequential benefits of fitment on the basis of the recommendations issued by the EC, the Chairman of the MG Bank by the memo dated 21<sup>st</sup> October, 2005 along with a corrigendum thereto could have taken a decision to recovery of any benefit drawn by the employees, more so when alteration of the fitment required interpretation from the Ministry of Finance (Banking Division), Government of India through NABARD.

12. An appellate power interferes not when the order appealed is not right but only when it is clearly wrong. A Court of Appeal should not ordinarily interfere with the discretion exercised by the Courts below. It is



not that every decision of the Hon'ble Trial Court, which is brought in appeal, should be viewed from pedagogy as if the decision rendered, was of a subaltern nature. As a model employer, the Government must conduct itself with high probity and candour and ensure that its employees do not succumb to the procedure rigmarole.

13. The appellant's contention that the clarification dated 30<sup>th</sup> April, 1993 on reconsideration of earlier recommendations for fitment resulted in issuance of wrong recommendation and that actually the memo dated 21<sup>st</sup> October, 2005 was issued in rectification, was rightly discounted by the learned Judge since any subsequent alteration would have been a matter relating to interpretation and clarification of the equation of fitment permissible in the manner as laid down in Clause 16 of the memo dated 22<sup>nd</sup> February, 1991 and more so when there is no reference of the purported recommendation dated 30<sup>th</sup> April, 1993 in the revised fitment slips. The Chairman of the MG Bank had no authority to alter any fitment or to issue any direction towards recovery.

14. The mere fact of the employee having put his signature on the pro forma and thereby agreeing to abide by any declaration does not warrant that a deduction shall be made when such alleged payment was not on account of any misrepresentation or fraud on the part of the employee. For the mistake towards payment of any alleged excess amount, attributable to the appellants, the employees cannot be made to suffer after a substantial period spanning over decades.



15. The learned Judge, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law. The impugned judgment also does not suffer from any jurisdictional error or any substantial failure of justice or any manifest injustice, warranting interference of this Court in appeal.

16. Accordingly, the appeal being FMA 140 of 2015 along with connected application, if any, is dismissed.

17. There shall, however, be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for be made available to the parties on their usual undertaking.

**(Partha Sarathi Chatterjee, J.)**

**(Tapabrata Chakraborty, J.)**