

(2011) 01 P&H CK 0407

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 20477 of 2010

Renu Sehtiya

APPELLANT

Vs

Punjab National Bank and
Others

RESPONDENT

Date of Decision: Jan. 3, 2011

Acts Referred:

- Central Civil Services (Pension) Rules, 1972 - Rule 24
- Constitution of India, 1950 - Article 14, 16(1)
- Pension Regulations for Army, 1961 - Regulation 16
- Punjab National Bank (Employees) Pension Regulations, 1995 - Regulation 22, 31

Citation: (2011) 4 LLJ 599 : (2011) 162 PLR 334

Hon'ble Judges: Ritu Bahri, J; M.M. Kumar, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

The Petitioner has challenged the constitutional validity of Regulation 22 and 31 (1st part) of the Punjab National Bank (Employees) Pension Regulations, 1995 (for brevity, "the Regulations"), alleging discrimination, arbitrariness and being violative of Article 14 of the Constitution. A further prayer for release of pensionary benefits of the Petitioner from 27.1.2007 till the date of dismissal on 27.1.2009 along with interest @ 18% per annum have also been prayed.

2. It is undisputed that the Petitioner was dismissed from service on 27.1.2007 (P-1) on various allegations, which have been levelled against her vide charge sheet dated 9.5.2006 (Mark "A"). The order of dismissal dated 27.1.2007 shows that the Petitioner was given show cause notice but she did not avail the opportunities afforded by the Respondent Bank. Accordingly, she was dismissed from service.

3. Regulation 22 of the Regulations is subject matter of challenge in the present proceedings along with Regulation 31. The relevant extract of both the Regulations are set out hereunder, which reads thus:

22. Forfeiture of Service.

(1) Resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail for forfeiture of his entire past service and consequently shall not qualify for pensionary benefits;

31. Compassionate Allowance.

(1) An employee, who is dismissed or removed or terminated from service, shall forfeit his pension.

Provided that the authority higher than the authority competent to dismiss or remove or terminate him from service may, if-

(i) Such dismissal, removal, or termination is on or after the 1st day of November, 1993; and

4. A perusal of Regulation 22 would show that if a person is dismissed from service then it would result into forfeiture of his entire past service and such an employee would not qualify for pensionary benefits. The language of Regulation 31 is also similar which says that an employee who is dismissed or removed from service is to forfeit his pension. The only condition laid down in the Regulation is that such dismissal, removal or termination has to be on or after 1.11.1993.

5. It is well settled that if an employee has committed a misconduct involving misappropriation of public funds and has been dismissed from service then his past service would stand forfeited. The right to pension has been made dependent upon fulfilling the necessary minimum qualifying service and more basically is founded upon the deferred principle of compensation for past service. If the past service stands forfeited then nothing would survive to claim pension. Rule 24 of the Central Civil Services (Pension) Rules, 1992, also provide for such an eventuality, which, in fact, is *pari materia* with Regulations 22 and 31 of the Regulations. Regulation 16(a) of the Army Pension Regulations, which make similar provision, came up for consideration of Hon"ble the Supreme Court in the case of [Union of India \(UOI\) and Others Vs. Brig. P.K. Dutta \(Retd.\)](#), and their Lordships" of Hon"ble the Supreme Court upheld the constitutional validity of that Regulation. Therefore, we are not impressed with the argument that Regulations 22 and 31 of the Regulations suffer from any vice of illegality or it violates constitutional mandate of Articles 14 and 16(1) of the Constitution. The writ petition is wholly misconceived and the same is liable to be dismissed.

6. We make it clear that if the Petitioner has availed any departmental remedy or any other legal remedy against the order dated 27.1.2007 (P-1) then that matter has

to be decided without being influenced by any observation made in this order because we have merely upheld the constitutional validity of Regulation 22 and 31 of the Regulations

7. As a sequel to the above discussion, the instant petition fails and the same is accordingly dismissed.