

(2014) 08 P&H CK 0308

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Misc. No. 9173-CWP of 2014

Krishna Aneja

APPELLANT

Vs

State Bank of Patiala

RESPONDENT

Date of Decision: Aug. 29, 2014

Hon'ble Judges: Gurmeet Singh Sandhawalia, J

Bench: Single Bench

Advocate: R.K.Malik, Senior Advocate and Samrat Malik, Advocate for the Appellant; H.N. Mehtani, Advocate for the Respondent

Final Decision: Allowed

Judgement

Gurmeet Singh Sandhawalia, J.

Application has been filed to dispose of the writ petition in terms of the judgment dated 22.10.2008 (Annexure P4), which has been further upheld in Letters Patent Appeal No. 312 of 2008 decided on 9.1.2009 (Annexure P5) and by the Apex Court vide judgment dated 7.7.2014 (Annexure P6).

2. The petitioner has filed the present writ petition for quashing the communication dated 12.3.2008 (Annexure P3) vide which the claim for grant of pension of the petitioner has been rejected.

3. Perusal of communication dated 12.3.2008 (Annexure P3) would go on to show that the State Bank of Patiala had rejected the request of the petitioner on the ground that his service was less than 20 years and Regulation 29(5) of the Pension Regulation, 1995 would not be applicable to those who sought voluntary retirement under the Voluntary Retirement Scheme.

4. The petitioner has, admittedly, 14 years 2 months service to her credit and had taken voluntary retirement under the State Bank of Patiala Voluntary Retirement Scheme dated 20.1.2001 and was relieved on 31.3.2001. The petition was also based upon the said judgment passed in a bunch of cases of the same bank and the lead case of that bunch was Civil Writ Petition No. 16527 of 2001 titled as "Prem Singh

Hooda v. State Bank of Patiala and Others, decided on 22.10.2008 (Annexure P4). The learned Single Judge, in the said case, had placed reliance upon the Division Bench judgment of this Court in [Dharam Pal Singh Vs. Punjab National Bank and Others](#), and granted the benefit of pension to the employees, who had taken voluntary retirement and who had more than ten years of service by holding that the qualifying service under the Regulations was ten years.

5. In the written statement filed by the Bank, it is pleaded that the above said judgment of the learned Single judge had been upheld by the Division Bench of this Court on 9.1.2009 (Annexure P5) and the matter was pending before the Apex Court and the operation of the judgment had been stayed. Vide order dated 6.8.2009, the writ petition was adjourned to await the decision of the said SLP and a similar order was passed on 8.12.2009.

6. BY way of the present application, counsel has placed on record, a copy of the judgment passed by the Apex Court dated 7.7.2014 (Annexure P6) wherein the appeal of the bank has been dismissed and the employees, having more than ten years of service, were held eligible for grant of pension, if they fulfill the requirement of qualifying service as per Regulation 14. The relevant portion of the judgment of the Apex Court reads as under:-

"13. For determination of the issue, it is desirable to refer to the relevant provisions of the State Bank of Patiala Voluntary Retirement Scheme, 2001, the background of such Scheme and relevant provisions of State Bank of Patiala (Employees) Pension Regulations, 1995.

14. Pursuant to Government of India, Indian Banks Association advice different Banks introduced Voluntary Retirement Scheme including the State Bank of Patiala Voluntary Retirement Scheme, 2000 introduced by the Bank, by its Circular No. Per/VRS/48 dated 20th January, 2001.

Clause 3 of the Scheme prescribed eligibility of voluntary retirement as follows:

"Clause 3:

Eligibility

The scheme will be open to all permanent employees of the Bank, except those specifically mentioned as "ineligible who have put in 15 years of service or have completed 40 years of age as on 31st December, 2000. Age will be reckoned on the basis of the date of birth as entered in service record.

While calculating the period of service, absence, which is reckoned as service, will be excluded.

If an officer, who has not completed mandatory rural or semi-urban assignment (either wholly or partly) submits an application for retirement under SBP VRS before approving his case, his promotions would stand withdrawn if confirmation

subsequent to promotion is subject to completing such mandatory service.

15. Apart from ex gratia which were offered under the Scheme, the following other benefits were prescribed therein:

"Clause 7:

Other benefits

- i) Gratuity as payable under the extant instructions on the relevant date.
- ii) Provident Fund contribution as per SBP Employee" Provident Rules as on relevant date.
- iii) Pension or Bank's contribution to Provident Fund as the case may be as per rules applicable on the relevant date on the basis of actual years of service rendered.

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16. The respondents who had completed more than 19 and 20 years of service applied for and were allowed to Voluntary Retirement Scheme aforesaid. They have been paid most of the benefits but pensionary benefits were not paid to them. Therefore, they had to move before the High Court.

17. State Bank of Patiala (Employees) Pension Regulations, 1995 are applicable to full time employees of the Bank. Regulation 2(w) defines qualifying service and 2 (y) defines retirement, they are as follows:

"2(w) "qualifying service" means the service rendered while on duty or otherwise which shall be taken into account for the purpose of pension under these regulations;

2(y) "retirement" means cessation from Bank's service:-

- a) on attaining the age of superannuation specified in -Service Regulations of Settlements;
- b) on voluntary retirement in accordance with provisions contained in regulation 29 of these regulations;
- c) on premature retirement by the Bank before attaining the age of superannuation specified in Service Regulations or Settlement;"

18. Chapter IV relates to qualifying service. Regulation 14 defines qualifying service as under:

"14. Qualifying Service-

Subject to the other conditions contained in these regulations, an employee who has rendered a minimum of ten years of service in the Bank, on the date of his retirement or on the date on which he is deemed to have retired shall qualify for

pension."

For the purpose of qualifying service, under the said Chapter IV Regulation 18 prescribes broken period of service of less than one year as under:

"18. Broken period of service of less than one year-

If the period of service of an employee includes broken period of service is less than one year, then if such broken period is more than six months, it shall be treated as one year and if such broken period is six months or less it shall be ignored."

19. Chapter V relates to Classes of Pension (Classes of Pension). Regulation 28 deals with superannuation pension as under:

"28. Superannuation Pension-

Superannuation pension shall be granted to an employee who has retired on his attaining the age of superannuation specified in the Service Regulations or settlements."

20. Regulation 29 relates to Pension on Voluntary Retirement, relevant portion of which reads as under:

29. Pension on Voluntary Retirement-

1) On or after the 1st day of November, 1993, at any time after an employee has completed twenty years of qualifying service he may, by writing to the competent authority retire from service; Provided that this sub-regulation shall not apply to an employee who is on deputation or on study leave abroad unless after having been transferred or having returned to India he has resumed charge of the post in India and has served for a period of not less than one year:

Provided further that this sub-regulation shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking or company or institution body, whether incorporated or not to which he is on deputation at the time of seeking voluntary retirement.

Provided that this sub-regulation shall not apply to an employee who is deemed to have retired in accordance with clause (1) of Regulation 2."

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(5) The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty years and it does not take him beyond the date of superannuation."

21. For premature retirement pension one may refer to Regulation 32, which reads as under:

"32. Premature Retirement Pension

Premature retirement Pension may be granted to an employee who, -

- a) has rendered minimum ten years of service;
- b) retires from service on account of orders of the Bank to retire prematurely in the public interest for any other reason specified in service regulations or settlement, if otherwise he was entitled to such pension on superannuation on that date."

Regulation 33 deals with an employee compulsorily retired from service as a penalty and which is not applicable in the present case.

22. The respondents completed more than 10 years of service in the Bank on the date of retirement; therefore, they fulfill the requirement of qualifying service as per Regulation 14."

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26. In view of the finding recorded above, the appeals do not have merit in reference with the impugned judgment, they are, accordingly, dismissed. No costs."

7. Accordingly, once the controversy has been settled and the case of the bank itself is that the matter was pending before the Apex Court. The objection of the counsel for the bank is that the matter is not covered is without any basis. It is submitted that some application for clarification has been filed before the Apex Court, cannot be taken into consideration. If any such application is made and is allowed, it is always open for the bank to file an application for modification of the order in this writ petition.

8. Accordingly, the application and the writ petition are allowed in the same terms as Prem Singh Hooda's case (supra) and the petitioner shall be entitled for the arrears of pension along with interest at the rate of 8% per annum from the date of her entitlement. The same be paid within two months from the date of receipt of a certified copy of this order.