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Tribhuwan Nath Srivastava Vs Chairman and Managing Director, Indian Overseas Bank and Others

C.M.W.P. No. 41677 of 2001

Court: Allahabad High Court

Date of Decision: Nov. 27, 2002

Acts Referred:
Constitution of India, 1950 â€" Article 14

Citation: (2003) 1 AWC 550 : (2003) 2 LLJ 521

Hon'ble Judges: Rakesh Tiwari, J; M. Katju, J

Bench: Division Bench

Advocate: M.D. Singh "Shekhar", for the Appellant; A.B. Saran, for the Respondent

Final Decision: Disposed Of

Judgement

M. Katju, J.
Heard learned counsel for the parties.

2. The petitioner has prayed for a writ of certiorari to quash the impugned order dated 21.2.2001, Annexure-3 to the petition and for a mandamus

directing the respondents to accept the petitioner"s application for the Voluntary Retirement Scheme, 2000.

3. The petitioner is presently working as Chief Manager (Scale IV) in the Indian Overseas Bank, Civil Lines Branch, Allahabad. He was born on

1.7.1949 and hence has completed 53 years of age. It is alleged in paragraph 4 of the writ petition that his work has been appreciated by his

superiors.

4. In paragraph 23 of the writ petition, it has been stated that petitioner does not suffer from any disqualification as mentioned in paragraph 4.2 of

Voluntary Retirement Scheme, 2000. Hence, it is obvious that petitioner was eligible for being given voluntary retirement.

5. Sri A.B. Saran, learned senior counsel for the respondents, however, submitted that all eligible persons are not entitled to get the benefit of the

Voluntary Retirement Scheme. This submission is no doubt correct. In paragraph 13 of the main counter-affidavit, it has been stated that the

competent authority considered the application of the petitioner and had observed on 21.2.2001 and deliberated upon the subject of acceptance

or otherwise of the voluntary retirement application of officers. The authority scrutinized each application in view of his past track record,

specialised skill, expertise, potential and administrative exigencies, etc. It is further alleged that the competent authority has discretion either to

accept or to reject the application of an officer/employee.

6. In paragraph 3 of the supplementary counter-affidavit, it is stated that there are in total 187 posts in Scale IV to which the petitioner belongs,

and out of them, 80 persons applied under VRS but the management accepted the application of only 22 officers, and the rest of the applications

were rejected taking into account various considerations and merits and demerits of the officers.

7. In our opinion, the words "taking into account various considerations and merits and demerits of the officers" is very vague. Similarly, the

averment made in paragraph 13 of the main counter-affidavit is also very vague.

8. Article 14 of the Constitution requires that there should be no arbitrariness or discrimination, otherwise the employees will have heart burning.

There must be some clear cut objective criteria as to whose application under the VRS will be accepted and whose application will be rejected. In

paragraph 6 of the supplementary counter-affidavit, it is stated that it is purely the discretion of the Bank as to whose application under VRS has to

be accepted and whose will not. This is not a tenable argument in view of Article 14 of the Constitution. There cannot be arbitrary pick and choose

in the matter.

9. In paragraph 3 (a) of the rejoinder-affidavit, it is stated that the Bank has not adhered to the eligibility provisions of the Bank"s own Scheme by

accepting applications of those officers/employees, who were not eligible to apply. In paragraph 3 (b) of the rejoinder-affidavit, it is stated that the

applications under the VRS were accepted of some of the officers/ employees against whom disciplinary proceedings were pending or

contemplated and hence they were not eligible. In paragraph 3 (c). It is stated that some officers/employees were at first denied VRS because they

were not eligible as they were facing disciplinary proceedings, and thus were ineligible as per Clause 4.2 (c) of the Scheme, but later on they were

given VRS. The names of such persons are given in paragraph 3 (b) of the rejoinder-affidavit.

10. We are, therefore, of the opinion that Bank has acted arbitrarily in petitioner"s case and has rejected his application without giving good

reasons. Hence, we quash the impugned order dated 21.2.2001, Annexure-3 to the writ petition and direct the Bank in question to reconsider the

matter in the light of the observations made above and decide the application of the petitioner for grant of VRS afresh within six weeks from the

date of production of a certified copy of this order in accordance with law and the scheme. The petition is disposed of.