(1997) 07 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. 5842 of 1996

Avinash Chander Passi APPELLANT

Vs

The Zonal Manager and Another RESPONDENT

Date of Decision : 25-07-1997

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab National Bank Officers Service Regulations, 1979 — Regulation 20

Citation : (1998) 1 ILR (P&H) 11

Hon'ble Judges : Jawahar Lal Gupta, J;B. Rai, J

Bench : Division Bench

Advocate : R.L. Chopra, for the Appellant; Amarjit Singh, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Petitioner is working as Senior Manager with the Punjab National Bank. On December 19, 1995, the Petitioner submitted a notice of voluntary retirement. The Respondent Bank declined the Petitioner''s request,--vide letter dated March 14, 1996, on the ground that a case "______in respect of M/s Champion Group of Companies Branch Office Green Avenue, Amritsar _____contemplated against you_______." Aggrieved by the action of the Respondent Bank in declining the Petitioner''s request for voluntary retirement, he has filed the present petition. It is alleged that action of the Bank is arbitrary. It has been further pointed out that a charge sheet had been actually issued to the Petitioner,--vide letter dated March 20, 1996. In this charge sheet, the allegation against the Petitioner was regarding unauthorised absence from duty. The Petitioner alleges that had there been any other allegation besides absence from duty, it should have been mentioned in the charge sheet issued to him on March 20, 1996. He prays that the order dated March 14, 1996, by which his request for premature retirement has been declined be quashed.

2. The Respondent bank contests the Petitioner''s claim. It has been averred that under the Regulations the Bank is competent to decline the request for

premature retirement or termination of services when any disciplinary proceedings are pending against an employee. It has been further pointed out that the request for premature retirement had been made only to avoid the action on account of the irregularities pertaining to the "loan account of M/s Champion Group of Companies, Branch Office: Green Avenue, Amritsar." The Petitioner wants to avoid to face the charges levelled against him. It has also been pointed out that the only reason assisgned in the Petitioner''s application for permission to retire was that he was not keeping well. In fact, the medical record shows that the Petitioner is physically fit. A copy of the certificate dated May 26, 1995, issued by the Civil Surgeon, Amritsar, has been produced as Annexure R-II with the written statement. It has been further explained that the charge sheet in respect of the absence from duty has been issued to the Petitioner. The charges with regard to the irregularities in the loan account of M/s Champion Group of Companies had been forwarded to the Vigilance Cell at the Head Office of the Bank in New Delhi. After the receipt of the report from the Cell, the charge sheet had been duly issued to the Petitioner and a copy thereof has been placed on record as Annexure R-3 with Civil Miscellaneous Application No. 26859 of 1996. On these premises, the Respondent maintains that it has rightly declined the Petitioner''s request for retirement from service.

3. The Petitioner has filed a rejoinder reiterating the claim as made in the petition.

4. Mr. Chopra, learned Counsel for the Petitioner, contends that no disciplinary proceedings had been initiated against him on December 19, 1995, when the Petitioner had made a request for premature retirement. Any inquiry that may be ordered against the Petitioner after that date is irrelevant and could not form the basis of the refusal to accept the Petitioner''s request. The claim made on behalf of the Petitioner has been controverted by the learned Counsel for the Respondents.

5. Admittedly, an officer serving the Bank does not have an absolute right to quit service as and when he likes. Under Regulation 20 of the Punjab National Bank Officers'' Service Regulations, 1979, it has been inter alia provided that "an officer shall not leave or discontinue his service in the Bank without first giving a notice in writing of his intention to leave or discontinue his service or resign. The period of notice required shall be 3 months and shall be submitted to the Competent Authority as prescribed in these regulations." Furthermore, it has also been provided that "an officer against whom disciplinary proceedings are pending shall not leave/discontinue or resign from his service in the Bank without the prior approval in writing of Competent Authority______." Clause 3 (ii) further provides that the "disciplinary proceedings shall be deemed to be pending against any employee for the propose of this regulation if he has been placed under suspension or any notice has been issued to him to show cause why disciplinary proceedings shall not he instituted against him______."

(Emphasis supplied)

6. On a perusal of these regulations, it is clear that any person who wants to leave or discontinue his service in the Bank has to serve a three months'' notice. The purpose is to give a reasonable chance to the employer to decide as to whether or not the officer should be permitted to retire or otherwise leave the service. Still further, in a case where the disciplinary proceedings are pending, the Bank has an absolute discretion to refuse to accept the request for voluntary retirement. The regulation also introduces a fiction. Even in a case where no charge sheet has been issued but only a notice calling upon the officer to explain his position or to show cause as to why disciplinary proceedings be not initiated against him has been given, it is presumed that the proceedings are pending. The result is that even in a case where a formal charge sheet has not been issued but merely the officer''s explanation has been called, the regulations contemplate that by fiction of law the disciplinary proceedings shall be deemed to have been initiated against him. What is the position in the present case ?

7. Admittedly, a charge sheet dated March 20, 1996 has already been issued to the Petitioner. Still further, action on account of certain irregularities in the loan account of a group of companies was also contemplated. Subsequently, even a charge sheet was issued to the Petitioner. Taking the totality of the circumstances into consideration, it cannot be said that the Respondent bank had acted arbitrarily in declining to accept the Petitioner''s request for premature retirement. Equally, it cannot be said that the action of the Bank was contrary to the provisions of the regulations.

8. An officer of the Bank deals with public funds. He holds a position of trust. If after committing an irregularity, he offers to resign on retire from service, the employer is entitled to reject the request if it finds that there is some irregularity which is required to be looked into, an irregularity may not be immediately notices after it is committed. It may come to the notice of the Bank at a subsequent stage. Even if on the date of the issue of the notice by the officer the irregularity had not been noticed by the employer, it cannot mean that he has an indefeasible right to leave the service. If such a course were permitted, the money deposited in the banks will not be safe. It would be against public interest.

9. Taking the totality of the circumstances into consideration, we find that there is no ground which may persuade us to interfere in exercise of our extraordinary jurisdiction under Article 226 of the Constitution.

10. No other point has been raised.

11. In view of the above, no ground for interference is made out. Dismissed.

