

(2015) 09 P&H CK 0338

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19572 of 2014

Avinash Kaur

APPELLANT

Vs

Punjab and Sind Bank and Others

RESPONDENT

Date of Decision : 17-09-2015

Acts Referred:

Citation : (2015) 180 PLR 500

Hon'ble Judges : P.B. Bajanthri, J.

Bench : Single Bench

Advocate : G.S. Bawa, for the Appellant; J.S. Sathi, for the Respondent

Final Decision : Allowed

Judgement

P.B. Bajanthri, J.—In this writ petition, the petitioner has questioned the validity of communication dated 11.12.2013, Annexure P-2, by which petitioner's application for grant of pension has been rejected on the score that the petitioner do not fulfill the qualifying service often years as she had rendered nine years, ten months and four days. The petitioner's husband is stated to have died while in service in the year 1999 and immediately thereafter, petitioner applied for compassionate appointment. The same was considered after nearly four years from the date of application for compassionate appointment and she was appointed on 26.06.2003. On 30.4.2013, petitioner attained the age of superannuation and retired from service. The petitioner's request for grant of pension was rejected on 11.12.2013 vide Annexure P-2 on the ground that petitioner did not fulfill the required qualifying service i.e. ten years. The petitioner being aggrieved by the said communication dated 11.12.2013 presented this petition.

2. Learned counsel for the petitioner vehemently contended that petitioner's husband died in the year 1999 and she applied for compassionate appointment in the year 1999. The same was considered after a gap of four years. Due to an inordinate delay in appointing her resulted in denial of rendering minimum

qualifying service towards grant of retrial dues. Had she been appointed in the year 1999-2000, she would have completed ten years of service as on the date of her retirement, which is a minimum qualifying service for grant of pension/retrial dues. It was further contended that Regulation 18 of the Punjab & Sind Bank Pension Regulations, 1995 relates to broken period of service of less than one year.

Regulation 18 reads as follows:

"Broken period of service of less than one year:

If the period of service of an employee includes broken period of service 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."

3. Learned counsel for the petitioner is taking shelter under the aforesaid clause to add shortage of 56 days to the service rendered by the petitioner so as to cover minimum ten years of qualifying service towards grant of retrial dues to the petitioner. On the other hand, Id. Counsel for the bank submitted that there is no infirmity in the Communication Annexure P-2 for the reasons that the petitioner has not completed minimum ten years of service, so as to grant retrial pensionary benefits to the petitioner. It was also contended that Clause 18 of the Regulation 1995 is not applicable to the petitioner's case since question of broken period of service of the petitioner is not the issue having regard to the date of appointment of the petitioner and date of retirement.

4. Heard counsel for the parties.

5. The short question for consideration in this matter is whether the petitioner is entitled to add 56 days to her service of nine years, ten on this and four days, in order to complete ten years of minimum qualifying service to grant pension to the petitioner or not.

6. Having regard to the regulations an employee has to complete ten years of minimum qualifying service for grant of pension/retrial benefits. No doubt the petitioner do not fulfill the aforesaid minimum qualifying service. However, there is four years delay in issuance of compassionate appointment to the petitioner by which the petitioner has been prevented in acquiring minimum qualifying service of ten years. The same shall be taken note of by the respondents and also invoke residuary Clause 56 of the 1995 Regulation which reads as follows:

"In case of doubt, in the matter of application of these regulations regard may be had to the corresponding provisions of Central Civil Service Rules, 1972 or Central Civil Services (Commutation of Pension) Rules, 1981 applicable for Central Government employees with such exceptions and modifications as the Bank, with the previous sanction of the Central Government, may from time to time, determine."

7. If there is any difficulty in adding 56 days towards petitioner's entire service, the respondents are directed to take sympathetic view as a special case with reference to the fact that there was delay of four years in appointing her and reconsider her case for treating that the petitioner had rendered ten years of service and to grant retrial/pensionary benefits within a period of ten weeks from today. Accordingly, civil writ petition is allowed and the impugned communication dated 11.12.2013 (Annexure P-2) is set aside.