

(2015) 02 RAJ CK 0290

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 770/204 in Civil Writ Petition No. 97 of 2009

Bank of India and Others

APPELLANT

Vs

Govind Purohit

RESPONDENT

Date of Decision : 04-02-2015

Acts Referred:

Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 — Section 19

Citation : (2015) 3 CDR 1411

Hon'ble Judges : Mohammad Rafiq, J;Prakash Gupta, J

Bench : Division Bench

Advocate : Ajay Shukla, for the Appellant; V.L. Mathur, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J—This special appeal is directed against the judgment of the Single Bench dt. 10.1.2014 by which the writ petition filed by the respondent-writ petitioner Govind Purohit has been allowed. Facts of the case in brief are that the respondent-Govind Purohit applied for appointment on the post of Industrial Relation Officer (IRO) pursuant to the advertisement issued by the Banking Service Recruitment Board (for short-BSRB) in the year 1982. He was issued a letter of appointment on 2.5.1983 on the said post with instruction to report by 1.8.1983. According to stipulation contained in para 5 of the appointment order, his services on confirmation were to be governed by the rules in vogue or framed from time to time for the services of the officers of the Bank. Recruitment in the public sector banks used to be made by BSRB prior to the year 2001-02. The Government of India advised the banks to frame their individual recruitment policies. The Bank of India adopted the recruitment policy on 30.5.2003, wherein maximum age prescribed for the General Banking Officers as well as Specialist Officers is 30 years. Para 7.2(i)(B) of the aforesaid policy provided that the maximum age limit in relation to specialist post was

determined on the basis of nature and other specifications thereof. Indisputably, there was no pension policy in vogue when the respondent joined the services of the appellant-Bank in 1983. The Indian Association of Bank framed the Regulations for giving pensionary benefits to its employees with due approval from the Central Government. Such pension regulations were either framed or adopted by different banks. The Bank of India in exercise of its powers under clause (f) of sub-sec. (2) of Sec. 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 also framed the Pension Regulation for its employees vide notification dt. 29.9.1995 by the name of Bank of India (Employees) Pension Regulations, 1995. It is not in dispute that the respondent was in service at the time the said Pension Regulations were enforced. He being eligible accordingly gave his option for availing the pensionary benefits.

2. The respondent on attaining the age of superannuation retired from service of the Bank on 30.09.2005. The Bank counting his length of service to be 22 years granted him pensionary benefits. The respondent immediately thereafter submitted a representation to the Bank on 10.10.2005 to the effect that since he was given appointment as a Specialist Officer, hence as per Regulation No. 26, he was entitled to the benefit of five years of additional service for the purpose of computation of his pension on superannuation. Thus, length of his service for the purpose of computation of pension on superannuation should be taken as 27 years instead of 22 years. His representation was forwarded by the Bank to the Indian Bank Association as well as Finance Ministry for their advice. When no response was received, the respondent filed an application under Right to Information Act on 7.5.2007. Not being satisfied with the reply received, he filed an appeal before the Appellate Authority of the Bank, which by its reply dt. 8.9.2008 informed the respondent that since he did not fulfill the conditions mentioned in Pension Regulation No. 26, he was not eligible to add notional qualifying service of five years to his actual service for the purpose of pension on superannuation. Aggrieved thereby, the respondent filed the writ petition, which has been allowed by the single bench vide impugned judgment.

3. Shri Ajay Shukla, learned counsel for the appellants argued that the learned Single Judge has not correctly interpreted the Pension Regulation No. 26, which in its second proviso specifically stipulates that such concession shall be admissible only if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one which carries benefits of such Regulation. In the instant case, no such age relaxation was given to the respondent so as to make him entitled to count additional 5 years of service for pension. It is argued that Pension Regulations for the first time were framed in 1995, whereas petitioner was recruited in the year 1983 and, therefore, such Pension Regulations can be applied only prospectively and not retrospectively. The learned Single Judge was not justified in applying them retrospectively. It is argued that the learned Single Judge has erred in law in holding that the Regulations of 1995 shall have retrospective effect because Regulation 3 of the Pension Regulations, which provides for receiving options for pension applies

even to those in service of the Bank on or after 1.1.1986 and who retired prior to 1.11.1993. It is submitted that Regulation 3 only provides criteria by which it can be decided when the employee could opt for pension or not. It was not compulsory for the employee to opt for pension. Purpose of such Regulation was only to bring recently retired employees within the purview of pensionary scheme, therefore, entire Regulation for that purpose cannot be held to be retrospective.

4. Shri Ajay Shukla, learned counsel would submit that conjoint reading of Regulation 3 and proviso to Regulation 26 makes it clear that concession shall be admissible only if the recruitment rules in respect of said service or post contain specific provision that the service or post is one which carries benefits of Regulation and the service or the post is covered by the Pension Regulations, indisputably, the Regulations of 1995 were not in force at the time of appointment of the respondent and therefore Regulation 26 should not apply to him. Apart from this Regulation 26 has been held applicable to those who continue to be in service of the Bank after the date of its notification i.e. 29.9.1995. Clause-4 of the Regulation 3 makes it applicable to those who joined the service of the Bank on or after the notified date. Clauses 5 to 8 of Regulation 3 make the Regulations applicable to such of the employees who have died during the period mentioned therein. Merely because the respondent was appointed before the commencement of Regulation 1995 and retired after its commencement, does not bring his case within the ambit of Regulation 26. The legislative intent is clear from second proviso to Regulation 26 that the same would apply to only such employees whose recruitment conditions properly and legitimately contain a provision for pension and since the pension has been made applicable from 29.9.1995, the date on which the Regulations aforesaid were notified, the benefit of addition of service of 5 years would not be available to the respondent.

5. Shri Ajay Shukla, learned counsel for the appellants further submitted that there was no recruitment policy of the Bank of India prior to 2003 and entire selection was done by BSRB. The Bank of India only adopted the policy for recruitment of officers and clerical staff of the Bank as advised by the Government of India vide letter dt. 19.9.2001 on 30.5.2003. The said recruitment policy would therefore apply only to such posts, which have been created in field after the framing of above policy. It is argued that the respondent was recruited in Scale-II as Specialist Officer at a time when no direct recruitment in that scale used to take place either for General Banking Officers or for Specialist Officers and, therefore, it cannot be accepted that he was granted any relaxation.

6. Learned counsel for the appellants submitted that this issue has been decided in favour of the appellant-Bank by the Calcutta High Court in Sankar Nath Das Vs. Union of India and Others, (2001) 3 CALLT 49 . He has also placed reliance of the judgment of Gujarat High Court in Bank of Baroda Retired Officers"

Association and Another Vs. Chairman and Managing Director, Bank of Baroda and Another, (2004) 3 LLJ 720 and Madras High Court in Chairman and Managing Director, Bank of Baroda & Ors. vs. V. Vijayan, W.A. Nos. 1237 to 1240 of 2014 decided on 17.10.2014.

7. Per contra, Shri V.L. Mathur, learned counsel for the respondent argued that the learned Single Judge has taken correct interpretation of the Regulation 26 and also Regulation 3. The phraseology used in the second proviso to Regulation 26 that the concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one which carries benefits of the Regulation, would have to be given contextual construction. The recruitment of the respondent was made in the year 1983. Merely because recruitment rules of appellant-Bank came into force in 2003, does not mean that there was no recruitment rules or policy at all. Respondent was given the offer of appointment by order dt. 14.2.1983 and thereafter the appointment order was issued on 2.5.1983. Prior to the joining, petitioner served two public undertakings namely; Union Bank of India from 19.7.1980 to 17.6.1983 and Instrumentation Ltd., Kota from 4.9.1967 to 17.7.1980. It was owing to these circumstances that the petitioner was granted relaxation in upper age limit for appointment. While the upper age limit as per the relevant instructions at that time was 28 years, the petitioner was recruited at the age of 38 years. Petitioner was entitled to benefit of addition of five years service for the purpose of computation of his pension as per Regulation 26, supra. Learned counsel in support of his arguments cited the judgment of Madras High Court in Thirikooda Rajappan P. vs. Chairman and Managing Director, Vijaya Bank & Ors., 2005-I-LLJ-442 , judgment of Karnataka High Court in Miss Vasudha Ramabhadran vs. Syndicate Bank, Writ Petition No. 17679/07 dt. 21.11.2011 and also the judgment of Supreme Court in Union of India and another Vs. S. Dharmalingam, AIR 1994 SC 592 : (1994) 68 FLR 140 : (1993) 6 JT 403 : (1994) LabIC 238 : (1994) 1 LLJ 551 : (1993) 4 SCALE 274 : (1994) 1 SCC 179 : (1993) 3 SCR 446 Supp : (1994) 1 SLJ 169 : (1994) 1 UJ 45 .

8. We have given our anxious consideration to the rival submissions and perused the impugned judgment and cited precedents as also other material on record.

9. What emerges from the rival submissions is that respondent at the time was 38 years of age and that he was granted for his appointment benefit of relaxation in age limit. This was because the maximum age prescribed for recruitment was 28 years and yet he was appointed as Industrial Relation Officer. Learned Single Judge has note that the refusal to grant benefit of additional service of five years, is based on two grounds; firstly that the Regulations do not have the retrospective effect and secondly, the petitioner does not conform to the conditions of Regulation 26. As regards the first issue, the learned Single Judge referred to Regulation 3 of the Regulations and held that those benefits are extended even to all existing employees whether appointed prior to or after the enforcement thereof. The question of its retrospectively does not arise, more

particularly when the respondent in the present case was already in service when the Regulations were enforced and was governed by such Regulations. As to the extension of benefits of Regulation 26, learned Single Judge has held that since at the time of direct recruitment, advertisement specified the upper age limit and recruitment rules of 1993 were enforced in 2003 by adopting the RBI Regulations and at the time when the respondent retired, the relevant rules carried the benefits as provided under Regulation 26 and, therefore, second proviso would not be an impediment for grant of addition of service of five years for the purpose of pension to the respondent. Before we express, our opinion on the correctness of the judgment of the learned Single Judge, it would be apposite to reproduce clause 26 of the Regulations which is as under:

"26. Addition to qualifying service in special circumstances.--An employee shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the Bank for direct recruitment or a period of five years, whichever is less, if the service or post to which the employee is appointed in one--

(a) for which post-graduate research, or specialist qualification or experience in scientific, technological, or professional fields, is essential; and

(b) to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited.

(c) for which the candidate was given age relaxation over and above the maximum age limit fixed by the Bank on account of his possessing higher qualification or experience:

Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time he quits the service in the Bank is not less than ten years;

Provided further that this concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one, which carries benefit of this regulation;

Provided also that the recruitment rules in respect of any service or post, which carries the benefit of this regulation, shall be made with the approval of the Central Government."

10. Let us now briefly survey the cited case law to better appreciate the controversy. The Madras High Court in Thirikooda Rajappan P., *supra* has interpreted Regulation 26(c) and its third proviso in a matter where the petitioner was directly recruited as an officer in South India Bank Ltd. After he completed ten years of service there, he was elected for the post of officer in the Vijaya Bank, which was a private Bank. Vijaya Bank officer Service Regulations framed by the Board of Directors of the said Bank were applied to the officers of

the Bank, who were serving at the time it was taken over by the Government. Petitioner retired on 31.12.1996 after completing 21 years and 4 months service in Vijaya Bank. Vijaya Bank Employees' Pension Regulations, 1995, in that case, came into force on 29.9.1995. These Regulations were made applicable to all the employees, who were in service on the notified date, provided they exercised their option. Petitioner opted in favour of receiving pension. Argument of the petitioner in that case was that he was entitled to addition of five years to his actual length of service, because he was appointed giving age relaxation and on account of his previous experience. The upper age limit for the direct recruitment was 25 years, but he was 39 on the date of his appointment. The Bank rejected his claim on the premise that clause (c) of Regulation 26 would not apply to him as his recruitment was not made as per the approval of the Central Government. The High Court held that clause (a) and (b) forms one category, whereas clause (c) forms separate category and, therefore, they cannot be read together and clause (c) directly applies to the petitioner, therefore, he would be eligible to count the additional service for pension.

11. Another division Bench of the Madras High Court in subsequent judgment dt. 17.10.2014 in the case of Chairman and Managing Director, Bank of Baroda & Ors., supra did not agree with this line of reasoning that clause (c) forms separate category than clause (a) and (b) of Regulation 26. The earlier judgment of Madras High Court in Thirikooda Rajappan P. while dealing with clause (a) and (b), with which we are concerned in the present case, providing that the desired concession shall be admissible if the recruitment rules in respect of said service or post contains specific provision that the service or post is one which carries benefits of this Regulation, had the following observations to make:

"12. Admittedly, Vijaya Bank was nationalised in the year 1980 and even on that date there was no pension regulations. Pension Regulations came into force only in the year 1995. Therefore, prior to 1995, there were no rules providing for such benefits. Therefore, this proviso would be redundant in so far the employees who were in service on the date when the Pension Regulations came into force. At the most, it would be applicable only to the employees who were subsequently employed. This regulation confers the benefit for the first time in the year 1995; a maximum of five years of qualifying service is added for certain categories of persons. That cannot be nullified by the proviso. That is, the main proviso gives the benefit to a class of persons and that benefit cannot be nullified by the third proviso. In as much as third proviso would nullify the benefit conferred under the main Regulation 26 in so far it relates to the employees who are already in service (when the petitioner entered into service there were no pension at all). Therefore, the petitioner is entitled to the benefits conferred under Regulation 26."

12. That part of the reasoning which has been expressed in para 12 of the judgment in Thirikooda Rajappan P., supra has not at all been commented upon by the division bench of the Madras High Court in later judgment in Chairman

and Managing Director, Bank of Baroda & Ors., supra, wherein the Court went to the extent of holding that since the Government of India has not approved the Pension Regulations earlier, therefore, the last proviso to Regulation 26 was not satisfied. Regulations would apply to only those who retired or died subsequent to 1.11.1993. This last observation appears to have been made in ignorance of Regulation 3.(1) which inter alia provides that these Regulations shall apply to the employees who (a) were in the service of the Bank on or after the 1.1.1986, but had retired before the 1.11.1993 and (b) exercise an option in writing within one hundred and twenty days from the notified date to become member of the fund and (c) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (d) the entire amount of the Bank's contribution to the provident fund with interest. It is only clause 3(2) which provides that the Regulation shall apply to those who retired on or after the 1.11.1993, but before the notified date and exercise option. Therefore, to say that the Regulation would apply to those who retired or died subsequent to 1.11.1993, would not be the correct proposition both of fact and law. Here, the crucial question is whether Regulation 26 completely bars the admissibility of benefit of addition of five years of service to the respondents and the likes of him.

13. According to Regulation 26 is that an employee shall be eligible to add to his service qualifying for superannuation pension the actual period not exceeding one fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the Bank for direct recruitment or a period of five years, whichever is less. Extension of the benefit has been made subject to three conditions namely: (a) that the post for which he is appointed should essentially require postgraduate research, or specialist qualification or experience in scientific, technological or professional fields and should be such of which the candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited. Clause (a) and (c) for which the candidate was given age relaxation over and above the maximum prescribed age on account of either of his possessing higher qualification or experience. Now, even when these three conditions are satisfied, the benefit of addition of five years has to further satisfy three provisos. The first proviso is that concession shall not be admissible to an employee unless his actual qualifying service at the time he quits the service in the Bank is not less than ten years. Second proviso stipulates that concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one which carries benefits of this Regulation. And third proviso states that recruitment rules in respect of any service or post which carries the benefit of this regulation shall be made with the approval of the Central Government. In fact, later two provisos broadly fall in the same category because they refer to one common requirement that the recruitment in rules in respect of service or post should contain specific provision for granting benefit of said Regulations i.e. the Regulations of the year 1995 and that such rules must have been framed with the approval of the Central Government.

14. Indisputably the Regulations of 1995 have been approved by the Central Government. It is also not in dispute that when the respondent was appointed, he was granted relaxation of as many as ten years and also that he was appointed as Specialist Post. Upper age limit was indicated in the advertisement in response to which he applied for appointment. Moreover, the respondent became subject to Regulation of 1995 by virtue of Regulation 3(3)(a), which inter alia extends Regulation to those who are in service of the Bank before the notified date and continue to be in service of the Bank on or after the notified date and (b) exercise an option in writing within the time period prescribed as aforementioned. In view of these facts, therefore, the view expressed by the learned Single Judge that since appellant Bank have adopted the RBI Regulations of 1995, which were notified and enforced w.e.f. 29.9.1995 and since petitioner retired much thereafter in 2005, there is no reason not to extend the benefit of addition of 5 years to him, cannot be faulted. In fact, the learned Single Judge was right in holding that it cannot be read in second proviso to Regulation 26 that this benefit would be available only from the date the concession is given in the recruitment rules. Had it been so intended, then the proviso would have been worded differently. Since the Pension Regulations came into force with effect from 29.9.1995, therefore, if what the appellant-Bank is contending that addition of five years to the qualifying service would be available only if in the relevant recruitment rules under which the appointment of the respondent was provided for extension of benefit of Regulation 26 is accepted, that would mean that such benefit would be available only to those recruited after the Regulations of 1995 came into force or later, if such condition was inserted in the relevant recruitment rules. The respondent was appointed on selection in the appellant-Bank on 2.5.1983. His recruitment was made as per the relevant instructions or orders of the appellant-Bank with regard to conditions of such recruitment. There was in such instructions a stipulation with regard to upper age limit for recruitment, which was 28 years. Age of the respondent at the time of his appointment was 38 years. This fortifies the claim of the respondent that his appointment was made by granting relaxation in outer age limit. The appointment of the respondent was made 12 years prior to promulgation of Regulation of 1995. Therefore, to say that benefit of addition of five years would not be available to the respondent because there was no reference to the Regulation or in particular clause (c) of the Regulation 26 in the relevant recruitment rules of the time under which respondent was appointed, would be taking too pedantic approach and rigid interpretation of the second proviso to clause (c) of Regulation 26. The appellant-Bank adopted the recruitment policy on 30.5.2003 when the Government of India advised vide their letter dt. 19.9.2001 but this cannot be a reason to maintain that there was no recruitment policy at all prior to the aforesaid adoption. Relevant instructions/orders which regulated the recruitment prior to the adoption of the above referred to policy and thereafter recruitment policy so adopted both provided for relaxation of age for reason of any special qualification or experience. Benefit of addition of service of five years as per the aforesaid Regulation 26 has to be therefore granted to such incumbents who as

per Regulation 3 came within the purview of Regulations of 1995 by taking contextual interpretation of the second proviso to clause (c) of the Regulation 26.

15. The Calcutta High Court in Sankar Nath Das *supra* dealing with this issue in para 26 of the judgment has held that second proviso to Regulation 26 stipulates that the said concession shall not be admissible if the Recruitment Rules in respect of the said service or post do not contain specific provision that the service or post is one which carries the benefit of the said Regulation. It was held that when the petitioners before that Court were appointed there were no recruitment rules, stipulating that the post carries the benefit of the Regulation 26. In fact there was no provision for grant of pension. That was the case in which the pension Regulations 1995 itself came into effect much after the retirement of the petitioners. It is for reason of this distinction that learned Single Judge in the impugned order has found the judgment distinguishable. This very issue came up before the Karnataka High Court in Miss Vasudha Ramabhadran *supra*. The petitioner in that case too was appointed on the post of Law Officer at a time when maximum age prescribed for the post was 35 years but the recruitment Rules prescribed a minimum of seven years practice as a lawyer. The Pension Regulations came into force from 29.9.1995. Thus neither the Recruitment Rules nor the Pension Regulations were in force on the date petitioner was appointed. Petitioner had the experience of 13 years as a Lawyer as on the date of her appointment. The High Court held that a Law Officer, who is appointed by virtue of his experience has to be considered as Specialist Officer for the purpose of addition of five years of service. It was held that reference to provisos to Regulation 26 would not arise for consideration since the question of Recruitment Rules providing for any benefit to the petitioner would arise only if such rules have been framed even before the appointment of the petitioner. The subsequent rules being framed would be irrelevant in so far as the petitioner is concerned. It was because the Pension Regulations have certainly come into force even before the petitioner attained the age of superannuation and the Regulations itself indicated that it would apply in respect of the employees who were in employment as on 1.11.1993, which certainly enabled the petitioner to claim the benefit of the Regulations as being applicable. Even if subsequently the petitioner was posted as Assistant General Manager in-charge of a branch, that would not detract from the issue that the petitioner was still a Specialist Officer. While holding so, the Karnataka High Court did not concur with its previous judgment in B. Vittal Pai Vs. Syndicate Bank, Manipal, (2000) ILR (Kar) 306 : (2000) 2 KarLJ 109 : (2000) 1 KCCR 84 , in which case on facts the writ petition was not accepted because there was no material placed before the Court that petitioner therein was appointed keeping in mind his specialised qualification or experience. Secondly, the writ petitioner in that case was the one who had retired during service prior to enforcement of the Pension Regulations.

16. The Supreme Court in cited judgment of UOI & Anr. vs. S. Dharmalingam, *supra* was dealing with a case where the respondent was employed as investigator in the National Sample Survey with effect from 8.5.1956, while so

employed, he was selected for the post of Labour Officer by way of direct recruitment through UPSC. Having been so appointed, he joined the said post on 16.5.1960. He then retired from service in August, 1985. The period of service as Investigator in National Sample Survey was included in his qualifying service. He, however, claimed further benefit of addition in qualifying service under Rule 30 of the Central Civil Services (Pension) Rules, 1972. Having been denied such benefit, he filed original application before the Central Administrative Tribunal, which was allowed by order dt. 12.7.1988. Rule 30(1) of the aforesaid Rules is in pari materia with Regulation 26 of the case, which reads as under:--

"30. Addition to qualifying service in special circumstances.--(1) A Government servant appointed to a service or post after 31.3.1960, shall be eligible to add to his qualifying service for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years or a period of five years, whichever is less, if the service or post to which the government servant is appointed is one--

(a) for which post-graduate research, or specialist qualification or experience in scientific, technological or professional fields, is essential; and

(b) to which candidates of more than twenty five years of age are normally recruited:

Provided that this concession shall not be admissible to a Government servant unless his actual qualifying service at the time he quits Government service is not less than ten years:

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule."

17. On analysis of the aforesaid Rule, their Lordships in para 7 held as under:

"7. xxxxxxxx the intention underlying the said provision is to compensate the Government servant for the time taken by him in securing the additional qualifications or experience which are essential for appointment to the service or post. This benefit is available to every Government servant who fulfills the requirements of the rule and there is nothing in sub rule (1) of Rule 30 to exclude the applicability of the said provision to a person who is already in Government service at the time of his appointment to a service or post referred to in Rule 30. To hold that the benefit under Rule 30 cannot be availed of by a person who is already in Government service at the time of his appointment to a service or post referred to in sub-rule (1) of Rule 30 would lead to anomalous consequences. A person who after employment in Government service for one year is appointed to a service or post referred to in sub-rule (1) of Rule 30, would be entitled to addition of only one year to his qualifying service if the benefit of Rule 30 is denied to him while a person who is not employed as a

Government servant at the time of his appointment to a service or post referred to in Rule 30 would be entitled to addition to a period extending up to 5 years to his qualifying service. There appears to be no reason for subjecting a person who is already in Government service at the time of his appointment to a service or post referred to in Rule 30 to a differential treatment and denying him the benefit available to other person who is not in Government service at the time of such appointment. The language used in Rule 30 does not make such an invidious distinction. In our view, therefore, addition to qualifying service under sub-rule (1) of Rule 30 is available to every Government servant who is appointed to a service or post referred to in sub-rule (1) of Rule 30 after 31.3.1960, irrespective of the fact whether he was already in Government service or was joining Government service for the first time, at the time of appointment to the service or post referred to in Rule 30."

18. In view of above, action of the Bank in seeking to deny benefit of addition of five years towards qualifying service for the purpose of computation of superannuation pension is unjust, unfair, arbitrary and, therefore, illegal. Impugned judgment, in our considered view, does not suffer from any infirmity/ illegality. The special appeal being devoid of merit, is hereby dismissed with no order as to costs.