(2002) 03 AP CK 0105

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15753 of 1992

Bhaskara Rao, K.V. APPELLANT

Vs

Andhra Bank and Another RESPONDENT

Date of Decision : 21-03-2002

Acts Referred:

Andhra Bank (Officers) Service Regulations, 1982 — Regulation 19
Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 — Section 12(2), 19

Citation : (2002) 4 ALT 218 : (2002) 3 LLJ 718

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : K.G.K. Prasad, for the Appellant; P.S. Rajasekhar Reddy and Nooty Ramamohan Rao, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—The petitioner was, at the relevant time, working as Assistant General Manager, Andhra Bank, Central Office-11, Hyderabad. When he was sought to be retired from service after attaining the age of 58 years, he filed the present writ petition seeking a direction to the respondents to forbear from retiring/superannuating the employees (officers including the petitioner appointed on or after January 1, 1973, at the age of 58 years and for a consequential direction to continue all such employees up to the age of 60 years.

2. Admittedly, the Andhra Bank (Officers) Service Regulations, 1982 (hereinafter called the Regulations'') were made by the Board of Directors of the Bank in consultation with the Reserve Bank of India and with the previous sanction of the Central Government in 1982 which came into force on January 1, 1983. These Regulations were made in exercise of the power conferred u/s 19 read with Sub-section (2) of Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. However, the petitioner did not choose to raise any dispute as to the age of retirement, but chose to do so only at the fag end of his career when he was

about to be superannuated. The delay on the part of the petitioner, therefore, bars any exercise of discretion by this Court in his favour. Be that as it may, Regulation 19 of the Regulations reads as under.

19, Age of Retirement:

1) The age of retirement of an officer employee shall be as determined by the Board in accordance with the guidelines issued by the Government from time to time.

Provided that the Bank may, at its discretion, on review by the Special Committee/Special Committees as provided hereinafter in sub-regulation (2) retire an officer employee on or at any time after the completion of 55 years of age or on or at any time after the completion of 30 years of total service as an officer employee or otherwise, whichever is earlier.

Provided further that before retiring an officer employee, at least three months notice in writing or an amount equivalent to three months'' substantive pay and allowances, shall be given to such officer employee.

Provided further that an officer aggrieved by the order of the Competent Authority, as provided in Sub-regulation (2) may, within one month of the passing of the order, give in writing a representation to the Board of Directors against the decision of the Competent Authority, and on receipt of such representation from the concerned officer, the Board of Directors shall consider his representation and take a decision within a period of three months. Where the Board of Directors decides that the order passed by the Competent Authority is not justified, the concerned officer shall be reinstated as though the Competent Authority has not passed the order.

Provided also that nothing in this Regulation shall be deemed to preclude an officer employee from retiring earlier pursuant to the option exercised by him in accordance with the rules in the bank.

Explanation:

1) An officer employee shall retire on the last day of the month in which he completes his age of retirement.

2) The Bank shall constitute a Special Committee/Special Committees consisting of not less than three members, to review, whether an officer employee should be retired in accordance with the first proviso to sub-regulation (1). Such Committee/Committees shall from time to time, review the case of each officer employee and no order of retirement shall be made unless the Special Committee/Special Committees recommends in writing to the Competent Authority the retirement of the employee.

3. As per the Regulation 19 of the Regulations, the age of retirement of an officer of the Bank shall be determined by the Board of Directors of the Bank in accordance with the guidelines issued by the Government from time to time.

These guidelines issued by the Government of India read as under:

Guidelines issued by the Government in terms of Regulation 19 of the Andhra Bank Officers'' Service Regulations - 1982.

The age of retirement of an officer employee in the Bank shall be determined in accordance with the following conditions:

i) An officer employee of the bank recruited as an award staff prior to April 15, 1980 and promoted as an officer employee on or after April 15, 1980 or directly recruited as an officer employee prior to January 1, 1973 shall retire on completion of 60 years of age.

ii) An officer employee of the bank recruited as an award staff on or after April 15, 1980 or as an officer employee on or after January 1, 1973 shall retire on completion of 58 years of age.

4. As per the guidelines, an officer employee of the Bank recruited as an award staff on or after April 15, 1980 or as an officer employee on or after January 1, 1973 shall retire on completion of 58 years of age, whereas an officer employee of the bank recruited as an award staff prior to April 15, 1980 and promoted as an officer employee on or after April 15, 1980 or an officer directly recruited prior to January 1, 1973 shall retire on completion of 60 years of age.

5. Mr. P.S. Rajasekhar, learned counsel representing Mr. Nooty Ramamohan Rao, learned Standing Counsel for Andhra Bank submits that the petitioner was appointed as an officer on December 19, 1975 which is not denied. Therefore, he falls under the category of officers who shall retire on completion of 58 years. The benefit of age of superannuation of 60 years is available only to an officer directly recruited prior to July 1, 1973. The writ petition is, therefore, misconceived. Further, be it noted that in exercise of jurisdiction under Article 226 of the Constitution, the Court is not entitled to legislate. The power to make Regulations u/s 19 read with Sub-section (2) of Section 12 of the Act is given to the Board of Directors. By reason of such delegation, Regulations have been made which have not been challenged. On the contextual interpretation of Regulation 19, it is to be held that all the directly recruited officer employees after January 1, 1973 will not be entitled for age of superannuation of 60 years and they shall have to retire at the age of 58 years.

6. The writ petition is devoid of any merits and the same is accordingly dismissed. No costs.

