

(2008) 04 SC CK 0038

In the Supreme Court Of India

Case No : Civil Appeal No. 2904 of 2008 (Arising out of S.L.P. (C) No. 8026 of 2006)

B.L. Arora

APPELLANT

Vs

Chairman and Managing Director, Syndicate Bank

RESPONDENT

Date of Decision : 22-04-2008

Acts Referred:

Released Emergency Commissioned Officers and Short Service Commissioned Officers (Reservation on Vacancies) Rules, 1971 — Rule 6
Syndicate Bank (Employees) Pension Regulations, 1995 — Regulation 24

Citation : AIR 2008 SC 2175 : (2008) AIRSCW 3362 : (2009) 1 ALT 1 : (2008) 3 CLT 638 : (2008) 117 FLR 1187 : (2008) 6 JT 375 : (2008) 3 LLJ 612 : (2008) 7 SCALE 284 : (2008) 5 SCC 645 : (2008) 2 SCC(L&S) 124 : (2008) 3 SLJ 429 : (2008) 3 Supreme 205

Hon'ble Judges : P. Sathasivam, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : Naveen R. Nath, for the Appellant; A.B. Dail Manish Chauhan, Sumati Anand, Gopal Kumar and Rajiv Nanda, for the Respondent

Final Decision : Disposed Of

Judgement

Arijit Pasayat, J.—Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Delhi High Court dismissing the writ petition filed by the appellant.

3. Background facts in a nutshell are as follows:

Appellant joined Short Service Commission in the Indian Army. There was an advertisement issued by the respondent- Syndicate Bank (hereinafter referred to as the "Bank") inviting applications for the posts of Junior Officers. Out of the total number of posts, 25% posts were reserved for Ex. Emergency Commissioned Officers/Short Service Commissioned Officers. Appellant appeared in the written test and was declared qualified. He joined the Bank on 29.3.1976 on being released from armed forces. For the purpose of fixation of pay and

promotion service, rendered by the appellant in armed forces was taken into consideration in view of certain government instructions. Appellant opted for voluntary retirement in the year 2001 in view of a scheme framed by the Bank. Appellant thereafter made a claim that the period of military service should be taken into account for fixation of pension computation and gratuity. The claim was turned down by the Bank in view of Regulation 24 of the Syndicate Bank (Employees) Pension Regulations, 1995 (in short the "Regulations"). The appellant took the stand that in view of the Government of India's instructions dated 10th November, 1986, the period of military service should be included for the purpose of computing the pension. The High Court dismissed the writ petition holding that the benefit of earlier army service in terms of Rule 6 of The Released Emergency Commissioned Officers and Short Service Commissioned Officers (Reservation on Vacancies) Rules, 1971 (in short "Rules") and Memorandum dated 21.9.1993 are restricted to the limited purpose of seniority and pay fixation.

4. Learned Counsel for the appellant reiterated the stands taken before the High Court. It was submitted that there was no reason or basis to exclude military service while computing the entitlement of pension when such period of service was counted for the purpose of seniority and scale of pay.

5. Learned Counsel for the respondents, on the other hand, submitted that in view of the clear stipulation in Regulation 24 the claim made by the appellant is clearly unacceptable.

6. Regulation 24 reads as follows:

24. MILITARY SERVICE:

An employee who has rendered military service before appointment in the Bank shall continue to draw the military pension, if any, and military service rendered by the employee shall not count as qualifying service for pension.

7. A bare reading of Regulation 24 makes it clear that an employee is entitled to the benefit of military pension, if any, but the military service is not to be counted as qualifying service for pension. Stand of the appellant is that because the appellant was serving as short commissioned officer he is not entitled to the military pension. That in no way makes the position better. The object of Regulation 24 is clear that the benefit is available for rendering service in the military has to be obtained from the army, if he is entitled to it. The decision in 298552 on which strong reliance is placed is of no assistance to the appellant. The judgment was rendered in a different factual scenario. Stand of the appellant is that the government in various memoranda extended service benefit in the matter of pay fixation and seniority. Reference is made to the communication of the Government of India, Ministry of Finance, Department of Economic Affairs, Banking Division No. 9/20/69-ECTT (C) dt. 26.8.1971 and F. No. 10/47/86-SCT(B) dt. 10.11.1986.

8. A bare reading of these communications goes to show that they relate to only pay fixation and seniority and do not throw any light on the pension aspect. It is submitted that at the relevant point of time the pension scheme was not in vogue in the Bank. If any benefit was intended in the matter of pension as claimed that could have been clearly spelt out in an appropriate office memorandum or circular. That has not been done. Therefore, the plea advanced has no substance.

9. Looked at from any angle the appeal is sans merit, deserves dismissal, which we direct.

10. The appeal is dismissed without any order as to costs.