(2018) 03 PAT CK 0046

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 21387 of 2013

Dineshwar Jha APPELLANT

Vs

The Central Bank of India RESPONDENT

Date of Decision : 08-03-2018

Acts Referred:

Citation : (2018) 2 PLJR 791

Hon'ble Judges : AHSANUDDIN AMANULLAH

Bench : Single Bench

Advocate : Pankaj Kumar Jha;Ajay Kumar Sinha;

Final Decision : Allowed

Judgement

1.Heard learned counsel for the petitioner and Central Bank of India (hereinafter referred to as the

ï¿½Bankï¿½).

2. Theï¿½ petitionerï¿½ hasï¿½ movedï¿½ theï¿½ Courtï¿½ forï¿½ the following reliefs:

ï¿½ï¿½i) For issuance of writ/writs, order/orders, direction/directions, in the nature of certiorari for

quashing the impugned order vide letter no. CO.HRD:RL-BNFTS 2013-14:988 dated 25.06.2013

(Annexure-5) issued by the Chief Manager, R/L, BNFTS, Central Bank of India whereby and where under

the application filed by the petitioner on 18.06.2013 with a prayer that the bank has issued a circular for

giving pension to the Officers who has been retired voluntarily from the Bank Service on or after

20.09.1995 under Regulation 19.7 of the Central Bank of India Officers Service Regulation 1979 in

which option for submitting a form under AOP was on 01.03.2013 in which the petitioner after voluntary

retirement he came to know about the option of the Regulation of Central Bank of India in which the

petitioner after voluntarily retirement accepted by the Central Bank of India on 14.02.2009. The petitioner

submitted his application option form on 18.06.2013 before the Respondent No. 2 (The General Manager,

Human Resource Development Department, Central Bank of India, Central Office, ï¿½ Chandramukhiï¿½

Building Nariman Point, Mumbai) whereby and where under the option for pension application form

dated 18.06.2013 has been closed and the reason has been assigned that the petitioner is not illegible for

any option for pension.

ii) For further prayer to direct the Respondents to immediately consider the Option Form submitted the by

the petitioner before the Chief Manager, HRD, Central Bank of India ï¿½Chandramukhiï¿½ Building,

Nariman Point, Mumbai whereby and where under the petitioner had requested to the respondents

concerned to immediately pay all the retrial benefits such as pension, family pension, leave encashment

etc. with regards to the central Bank of India Circular and Regulation 19.7 Rule regarding the voluntary

retirement of officers under proviso to Sub-Clause 1 of Regulation 19 which prescribes that the officer

employees of the bank may permit the retired voluntarily from the service of bank any time if he

completed 30 years of service as officer or has attended the age of 55 years whichever happens earlier after

giving the bank 3 monthsï¿½ notice in writing, accordingly the petitioner submitted his application for voluntary retirement on 27.09.2008 before the competent authority and the same was accepted on

14.02.2009. Thereafter, the petitioner submitted the option form on 18.06.2013 as per the circular issued

under VRS Regulation 19.7 Rule, the same was received in the office of the respondents concerned but

rejected on 25.06.2013 without assigning reason, as such the petitioner is fully entitled for pension as

well as other retrial benefits.

iii) For further prayer to direct the respondents concerned to immediately pay the entire pensionary

benefits as per the rules and regulations as well as Option Forms of Voluntary Retirement such as

Provident Fund, Leave Encashment, Gratuity and Family Pension etc.

iv) For further prayer to make any other relief or reliefs, order/orders, direction/ directions you may deem

fit and proper in the facts and circumstances of this case.ï¿½

3. In sum and substance, the petitioner seeks a direction that the option exercised by him for getting the

pensionary benefits under the policy of the Bank be granted to him though he may have applied for the

same a little late on account of him being unaware of such policy/circular.

4. The petitioner while working on the post of Senior Branch Manager, Saharsa under the Bank took

voluntary retirement under the V.R.S. policy of the Bank with effect from 27.09.2008. The Bank accepted

the same but the petitioner wanted such acceptance to be revoked on the ground that the Bank had not

given its consent and acceptance within the time frame by which the same had to be done and, thus,

automatically his option for V.R.S. stood revoked. The said challenge was negated initially by the single

Bench and thereafter by the Division Bench in L.P.A. No. 1096 of 2009, by order dated 29.01.2013. It

appears that the Pension Scheme of the year 1995 was extended by a circular of the Bank dated

28.12.2012, by which persons who had opted for the C.P.F. instead of pension were given a fresh option

to shift to the pension scheme with the stipulation that such option had to be exercised latest by

01.03.2013. The petitioner obviously and admittedly applied for the same on 18.06.2013 resulting in

denial of the request by the Bank.

5. Learned counsel for the petitioner submitted that as he was out of service from the year 2008 and the

matter attained finality on 29.01.2013, the subsequent circular of the Bank extending the period for giving

option for pension till 01.03.2013 under circular dated 28.12.2012, never came to the notice of the

petitioner and, thus, he could not opt for the same. Learned counsel for the petitioner submitted that from

the counter affidavit filed on behalf of the petitioner, it would be clear from the copy of the said circular

sent to the petitioner by courier, that the address was incorrect and further, as per the requirement, the

same should have been sent by registered post which also has not been done.

6. Learned counsel for the Bank submitted that the Bank has discharged its onus by communicating the

policy to the petitioner and further he was required to be aware of the developments as he was at that time

still litigating with the Bank.

7. Having considered the rival contentions, the Court finds that the petitioner is entitled for consideration

of his option under the pension scheme of the Bank. Admittedly, the petitioner was out of service of the

Bank from the year 2008 and, thus, cannot be presumed to be in the known of things as it is not the case of

the Bank that the policy was published in any of the newspaper which is only mode known to law which

can be said to be a communication to the public at large or to a person who may not be present in the

office of the concerned authority. This is one aspect of the matter. The other equally important aspect of

the matter is that once in the circular dated 28.12.2012 itself, there is stipulation that the concerned

Bank/office should send an offer letter by registered post to the last address of the eligible retired

employee/family of the deceased employee, and in the present case, the admitted position being that the

Bank had sent the same through courier, clearly goes in favour of the petitioner? s stands that he did not

receive the same moreso, when the address given on the envelope, copy of which has been brought on

record in the counter affidavit filed by the Bank itself clearly shows that the address is incorrect. Thus, on

both counts, the plea taken by the petitioner of neither being aware of the said circular nor being informed,

is worth accepting and further, the onus was on the Bank to communicate and send the offer letter through

registered post to the petitioner also clearly has not been discharged.

8. Having considered the matter in its entirety, the writ petition stands allowed. The petitioner is held

entitled for pension for which he has opted under his offer letter dated 18.06.2013. The Bank is directed

to take necessary steps in the matter and ensure that the benefits are paid to the petitioner in accordance

with law expeditiously and in any case within three months from the date of production of a copy of this

order before the respondents no. 4 and 5.

