
(2005) 01 RAJ CK 0029
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3248 of 2002

Gopal Prasad Varshney

APPELLANT

Vs

Bank of Rajasthan Ltd.

RESPONDENT

Date of Decision : 10-01-2005

Acts Referred:

Constitution of India, 1950 — Article 12, 226
Employees Pension Regulations, 1993 — Regulation 26

Citation : (2005) 2 RLW 1351 : (2005) 2 WLC 382

Hon'ble Judges : Ashok Parihar, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; R.K. Kala, for the Respondent

Judgement

Ashok Parihar, J.—Petitioner was appointed on the post of Clerk in the respondent-Bank on 23.1.1965 after giving age relaxation of two and a half years in view of his additional qualifications. The petitioner retired from service on reaching the age of superannuation on 31.7.1995. Seeking protection of Regulation 26(c) of the Employees Pension Regulations, 1993, as applicable on the respondent-bank, the petitioner has prayed for addition of two and a half years in his total service tenure for getting full pension for which the qualifying period as provided under the Regulations, is 33 years.

2. Apart from submitting that the relaxation could be given only to the persons regularly appointed through recruitment, a preliminary objection has also been raised on behalf of the respondent that the respondent-Bank is not a State Within Article 12 of the Constitution of India. Learned counsel for the respondent has submitted that the point in issue in regard to respondent-Bank been a State under Article 12 of the Constitution of India or not came for consideration before this court in the case of Arjun Singh Rajpurohit v. Bank of Rajasthan and Ors. (SB Civil Writ Petition No. 1536/2002, decided on 11.5.2002). Learned Single Judge at the Main Seat of this court held that the Bank of Rajasthan been a private company registered under the Companies Act, 1956, is neither held to be

a State, nor any instrumentality of the State. The same question further came for consideration before this court at the Main Seat in the case of Sheesh Ram Beniwal v. General Manager, Bank of Rajasthan and Ors. (SB Civil Writ Petition No. 3153/2000, decided on 20.7.2004). Again while relying on the judgment of Supreme Court in the case of Federal Bank Ltd. v. Sagar Thomas and Ors. (2003 (Suppl. 1) SC 470) this court held that the respondent-Bank is not a State within Article 12 of the Constitution of India so as to maintain a writ petition before this court.

3. Learned counsel for the respondent while relying on the judgment of the Supreme Court in the case of Federal Bank Ltd. v. Sagar Thomas and Ors. (supra), has submitted that a similar view in regard to private Banks has also been taken by a Division Bench of the Kerala High Court in the cases of C.J. Thomas and Others Vs. South Indian Bank Ltd. and Others, and Immanuel Paul Chakkola Vs. Catholic Syrian Bank and Others, as also by the Single Bench of Allahabad High Court in the case of Jata Shankar Mishra and Ors. v. Benaras State Bank Ltd., Varanasi and Ors. (2000(8) SLR 747).

4. The petitioner, who is present in person, on the other hand has submitted that this court under Article 226 of the Constitution of India has large original jurisdiction and any statutory right can be claimed directly by way of filing a writ petition before this court. So far as the respondent-Bank is concerned, the petitioner has relied on the judgment of this court in the case of Bank of Rajasthan Retired Staff Society v. Bank of Rajasthan Ltd. (SB Civil Writ Petition No. 1854/2002, decided on 16.7.2004). Learned Single Judge of this court at Jaipur Bench also while relying on the judgment of the Supreme Court in the case of Federal Bank Ltd. v. Sagar Thomas (supra), has held, otherwise, that the respondent-Bank, i.e., the Bank of Rajasthan, comes within the definition of Scheduled Bank and is amenable to the writ jurisdiction. Mr. Kala, learned counsel for the respondent-Bank, however, submitted that a DB Special Appeal has already been admitted by this court against the judgment relied on by the petitioner in the case of Bank of Rajasthan Retired Staff Society v. Bank of Rajasthan Ltd. (supra).

5. After having considered the entire facts and circumstances, I have carefully gone through the judgments cited at the Bar.

6. The petitioner has prayed for enforcement of his rights under Regulation and has claimed certain benefits. However, the main issue is whether the same relief can be granted by this court in the present writ petition. Three Hon'ble Judges of this court having taken different views as to whether the respondent-Bank is a State under Article 12 of the Constitution of India relying on the judgment of the Supreme Court in the case of Federal Bank Ltd. v. Sagar Thomas and Ors. (supra), and there been views of other High Courts also holding the private Bank not amenable to the writ jurisdiction, in my opinion as also in the interest of justice, it will be proper that the whole controversy in regard to respondent-Bank be decided by a Larger Bench.

7. Accordingly, the order and the record of the case be placed before the Hon''ble Chief Justice for consideration and necessary directions for constituting a Larger Bench to decide the point in issue. Since the matter may affect so many persons connected with the private Banks, the Hon''ble Chief Justice be requested to pass further necessary directions at the earliest.

8. Put up before the appropriate Bench after seeking necessary directions from the Hon''ble Chief Justice