(2006) 11 DEL CK 0116

In the Delhi High Court

Case No : Writ Petition (Civil) No. 6749/01 and CM 11559/01 and 5727/05

Inderjit Bhanot APPELLANT

Vs

Punjab National Bank and Others RESPONDENT

Date of Decision : 08-11-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19, 21

Citation : (2006) 11 DEL CK 0116

Hon'ble Judges : Manju Goel, J

Bench : Single Bench

Advocate : Shailendra Bhardwaj, for the Appellant; Raj Birbal and R.S. Mathur, for the Respondent

Final Decision : Dismissed

Judgement

Manju Goel, J.—ADMIT.

2. Heard.

3. The petitioner was an employee of the respondent Punjab National Bank and offered to retire under the Punjab National Bank Employees Voluntary Retirement Scheme, 2000 (hereinafter referred to as the "Scheme") vide his letter dated 19.10.2000. However, the petitioner sent a letter dated 15.12.2000 withdrawing his offer of voluntary retirement dated 19.10.2000. Nonetheless, the respondent Bank relieved the petitioner on 20.12.2000. The petitioner here seeks the relief of a mandamus directing the respondent to permit the petitioner to withdraw his notice of voluntary retirement. It may be mentioned here that another prayer for quashing a Circular No. 1755 dated 29.9.2000 has not been pressed.

4. It is contended by the petitioner that his letter of withdrawal of offer of voluntary retirement was submitted even before his offer was accepted. He has expressed that he is willing to return the amount received from the respondent towards ex-gratia payment etc. available under the Scheme. He alleges that the respondent has acted in violation of principles of natural justice and has thereby

deprived the petitioner of his valuable rights available under Articles 14, 16, 19 and 21 of the Constitution of India.

5. The respondent contends that inter-alia (a) the offer to retire cannot be withdrawn in view of para 10.5 of the Scheme and (b) the voluntary retirement scheme is distinct from the normal rules of seeking voluntary retirement and, Therefore, the principle that the offer could be withdrawn before acceptance, is not applicable to this case.

6. The respondent subsequently filed an additional affidavit stating therein that the issue raised by the petitioner in this writ petition has been considered by the Supreme Court in the case of Bank of India and Others Vs. O.P. Swaranakar etc., . The orders of the High Court allowing withdrawal of applications for voluntary retirement cannot be reversed in cases where the concerned employees had accepted a part of the benefit under the scheme. The respondent then proceeded to show how the petitioner had accepted the benefit under the Scheme by giving the details of his bank account.

7. Several other employees of Punjab National Bank, who similarly applied for VRS and withdrew the offer and yet were retired under the Scheme, approached the Court. Some of such writ petitions were decided in favor of those employees vide judgment dated 24.7.2001. The LPA arising from that judgment, being LPA No. 396/01 was decided by this Court on 13.2.2006. The Division Bench of this Court took note of the Supreme Court judgments in the cases of Bank of India v. O.P. Swarankar etc. 2003 (2) SCC 271 ; Punjab National Bank Vs. Virender Kumar Goel and Others, ; Bank of India and Others Vs. Pale Ram Dhania, ; State Bank of Patiala Vs. Romesh Chander Kanoji and Others, ; and Punjab & Sindh Bank and Anr. v. S. Ranveer Singh Bawa and Anr. JT 2004 (Supp.1) SC 594 in which the Supreme Court said that those employees, who had opted under the VRS and had been paid the amount, could not be allowed to subsequently withdraw the application for voluntary retirement if they utilised even a part of the amount, which had been paid to them. The Division Bench proceeded to consider the case of each individual employee before it and observed that most of them had utilised the amount of voluntary retirement scheme that had been paid to them. Two appellants, namely C.S. Sanon and Ashok Kumar Shukla, who had not utilised the amount of voluntary retirement, were allowed to withdraw their applications from the Scheme. A case very similar to that of the petitioner was that of C.P. Vig, who was one of the appellants in the LPA. The facts of his case were as under:

As regards respondent No. 2, C.P. Vig, he had an amount of only Rs. 5,000/- in his Saving Bank Account at the time when the VRS amount of Rs. 1,50,000/- was deposited on 2.1.2001 and further amount of Rs. 2,66,105.46 deposited on 31.1.2002 as Ex gratia (cash component), Rs. 4,15,000.00 on 25.1.2001 as Ex gratia (bond component) and Provident Fund amount of Rs. 5,19,742.88 on 24.4.2001, Gratuity amount of Rs. 2,30,311.00 on 26.3.2001 and leave encashment amount of Rs. 1,50,789.00 on 2.1.2001.

Sh.C.P.Vig withdrew an amount of Rs. 58,000.00 on 4.1.2001, Rs. 54,600.00 on 5.1.2001, transferred Rs. 4,00,000.00 on 1.3.2001 to MBO, withdrew Rs. 5,25,000.00 on 1.5.2001 and withdrew Rs. 80,000.00 on 25.8.2001 for the purpose of D.D. in the name of NIT, Faridabad.

8. On the basis of these facts, the Division Bench then held as under:

Thus a perusal of these facts shows that Sh. C.P. Vig had utilized large amounts from the VRS amount deposited by the bank in his Saving Bank Account. Hence, he cannot withdraw his application for voluntary retirement.

9. Learned Counsel for the petitioner, Mr. Shailendra Bhardwaj made an attempt to distinguish the case of the petitioner from that of the case of C.P.Vig. According to him, the deposits made by the bank in his account and the withdrawal there from were all done by the respondent unilaterally and, Therefore, those withdrawals shown in the account of the petitioner would not amount to any withdrawal and that the petitioner not being aware of those deposits and withdrawals cannot be stopped from withdrawing his application for voluntary retirement or from presenting the writ petition. The statement of accounts is available as Annexure R1 to the additional affidavit filed by the respondent Bank. Two important deposits relevant for this case were a sum of Rs. 44,484/- on 30.12.2000 and a sum of Rs. 1,27,745.92p. on 9.1.2001. These are deposits towards leave encashment and ex-gratia payment under the Scheme. These deposits were made after the letter of withdrawal of offer, but the same was situation in the case of C.P.Vig. Mr. Bhardwaj initially argued that the withdrawals were also unilaterally done by the respondent who was maintaining the account. It is further submitted by him that so far as leave encashment is concerned, the same was not a part of the Scheme and was the normal terminal benefit and, Therefore, utilisation of that amount will not come in his way. Coming to the withdrawal side, there was one withdrawal of Rs. 40,686/-. This could be said to be a withdrawal of the leave encashment amount. It should be stated here that on the day when Rs. 44,404.86 p. were deposited, there was only about Rs. 10,000 in his account. Soon after the deposit of Rs. 1,27,745.92p. as ex-gratia amount, the petitioner is shown to have withdrawn a sum of Rs. 17,820/- on 19.1.2001 and a sum of Rs. 1,27,000/- on 1.3.2001. On instructions from the petitioner present in person, Mr. Bhardwaj stated that Rs. 17,820/- was adjusted against a vehicle loan and the withdrawal of Rs. 1,27,000/- was made in order to create an FDR for a sum of Rs. 1,50,000/-. It is explained by him that he added some more amount to the sum of Rs. 1,27,000/- withdrawn from his account to make the round figure of Rs. 1,50,000/-. He further contends that he did not "withdraw", but actually converted the amount into an FD.

10. This act of the petitioner is indicative of the fact that the petitioner not only knew that the ex-gratia amount had been deposited in his account, but also that he had utilised the amount just as C.P.Vig had done. This Court is bound by the judgment in LPA No. 396/01 dated 13.2.2006. I see no difference between the case of C.P.Vig and that of the present petitioner and, Therefore, this petition

must meet the same fate as C.P.Vig. The petition, Therefore, has to be dismissed. It is ordered accordingly.

