

**(2005) 04 GUJ CK 0067**  
**In the Gujarat High Court**

**Case No :** L.P.A. No. 1206 of 2004 in S.C.A. No. 12431 of 2002

Jitendra Shantilal Shukla

APPELLANT

Vs

Bank of Baroda and Another

RESPONDENT

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**Date of Decision :** 25-04-2005

**Acts Referred:**

**Citation :** (2005) 3 LLJ 305

**Hon'ble Judges :** G.S. Singhvi, J;Anant S. Dave, J

**Bench :** Division Bench

**Advocate :** Sandeep N. Bhatt, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

G.S. Singhvi, J.—Whether resignation from service is akin to voluntary retirement is the only question which arises for determination in this appeal filed by the appellant against the order of the learned single Judge who declined to entertain his prayer for directing the Respondents to give him pensionary benefits in accordance with the Bank of Baroda (Employees") Pension Regulations, 1995 (for short, "the Regulations").

2. The Appellant joined the service of the Respondent-Bank on December 12, 1978. He tendered resignation, which was accepted with effect from September 12, 1993. After almost six years, he applied for grant of pension in accordance with the Regulations. His application was rejected vide order dated July 1, 1999. After three years, he filed Special Civil Application No. 12431 of 2001 for issuance of a mandamus to the Respondent-Bank to pay pensionary benefits.

3. The learned single Judge held that an employee, who had resigned from service is not entitled to pension. She referred to the judgment of the Division Bench of this Court in Premji Khanji Masani v. Regional Manager, 2000 (1) GLH 199 and held that the Petitioner, (Appellant herein), who had resigned almost two years before the framing of the Regulations is not entitled to pensionary benefits. Still further, she held that the writ petition was highly belated, in as

much as, the Petitioner had not explained the delay of almost three years.

4. We have heard Shri Sandeep N. Bhatt and perused the record.

5. In our opinion, the question whether resignation is akin to voluntary retirement is no longer *res Integra* and must be treated as settled against the Appellant by the judgments of the Supreme Court in *UCO Bank and Others Vs. Sanwar Mal, Jaipal Singh Vs. Smt. Sumitra Mahajan and Another*, and *Reserve Bank of India and Another Vs. Cecil Dennis Solomon and Another*, . In *Sanwar Mal's* case (*supra*), the Supreme Court interpreted the provisions of UCO Bank (Employees") Pension Regulations, 1995, which are *pari materia* to the regulations framed by the Respondent-Bank. While allowing the appeal filed by the Bank against the order of the Punjab and Haryana High Court, which had upheld the Respondents' claim for pension by treating resignation at par with voluntary retirement, the Supreme Court observed as under *UCO Bank and Others Vs. Sanwar Mal*,

"9. ... The words "resignation" and "retirement" carry different meanings in common parlance. An employee can resign at any point of time, even on the second day of his appointment but in the case of retirement he retires only after attaining the age of superannuation or in the case of voluntary retirement on completion of qualifying service. The Pension Scheme herein is based on adequate contributions from the members of the pension fund and requires the Bank, on actuarial calculations, to make annual contribution to the fund. It is a self-financing scheme, which does not depend upon budgetary support and consequently it constitutes a complete code by itself. The Scheme essentially covers retirees as the credit balance to their provident fund account is larger as compared to employees who resigned from service. Moreover, resignation brings about complete cessation of master-and-servant relationship whereas voluntary retirement maintains the relationship for the purposes of grant of retiral benefits, in view of the, past service. Similarly, acceptance of resignation is dependent upon discretion of the employer whereas retirement is completion of service in terms of regulations/rules framed by the Bank. Resignation can be tendered irrespective of the length of service whereas in the case of voluntary retirement, the employee has to complete qualifying service for retiral benefits. Further, there are different yardsticks and criteria for submitting resignation vis-a-vis voluntary retirement and acceptance thereof.... Hence we do not find any merit in the arguments advanced on behalf of the respondent...."

6. The same view was expressed in *Reserve Bank of India and Anr. v. Cecil Dennis Solomon* (*supra*).

7. Following the law laid down by the Supreme Court in the aforementioned judgments, we hold that the learned single Judge did not commit any error by rejecting the Appellant's claim for pension.

8. In the result, the appeal is dismissed.