
(2004) 02 PAT CK 0038
In the Patna High Court
Case No : CWJC No. 6089 of 2002

John. Seraphin

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 12-02-2004

Acts Referred:

Citation : (2004) 1 BLJR 592 : (2004) 101 FLR 979 : (2004) 3 LLJ 150 : (2005) 1 PLJR 354 : (2004) 2 PLJR 102

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Judgement

R.S. Garg, J.—Heard learned counsel for the parties.

The facts in nutshell are that petitioner working with the State Bank of India, in accordance with Annexure-4, the policy dated 29.12.2000, proposing voluntary retirement scheme submitted his application for voluntary retirement. It appears that certain explanation etc. were called from the petitioner as he was found involved in some irregularity with M/s. Port Steel Complex (P.) Ltd. By communication dated 2.3.2001 (annexure 1) the petitioner was informed that he was ineligible because exoneration order in the case of M/s. Port Steel Complex (P.) Ltd. at Boring Road was pending for want of Corporate Centre's concurrence.

2. The petitioner came to this Court and the respondents on notice filed their show cause. The respondents submits that in accordance with Annexure-4 providing the criteria, the petitioner was ineligible because an explanation was sought for from the petitioner and final orders in the matter were not passed. It is also submitted by the respondents that as a matter of the policy the Bank has held that the people who were below 55 years of age when the policy was in force their applications for voluntary retirement would not be accepted. According to the respondents, as the petitioner was not eligible either under the original voluntary retirement scheme or under the policy of the Bank the Bank was justified in refusing to accept the application for voluntary retirement.

3. Learned counsel for the petitioner, at this stage, submits that rejection of the petitioner's application seeking voluntary retirement was not on the ground that he was below 55 years of age and therefore, the said ground cannot be pressed into service at this stage. It is also submitted by him that the order of exoneration was already passed but it was pending concurrence by the Corporate Centre, According to him, if the delay is on the part of the department or the establishment the petitioner cannot be allowed to suffer.

4. Undisputedly, Annexure-1, letter No. G/1192 dated 2.3.2001 is not on the basis of the said policy of the Bank. It does not say that the petitioner being below 55 years of age would not be entitled to seek voluntary retirement. If that be so, a ground which could justify the order cannot be projected later if that is not the foundation for issuing the order.

5. So far as ineligibility clause is concerned that reads as under:

"Employees against whom Disciplinary proceeding are contemplated/ pending or who are under suspension would be ineligible under the scheme. This would also include the employees against whom action has been initiated by Government agencies/other law enforcing agencies."

6. Undisputedly, the petitioner was not under any action by Government agency or other law enforcing agencies. A show cause notice was issued to the petitioner and his explanation was accepted. It must be held at this stage that the disciplinary proceedings never commenced against the petitioner. The disciplinary proceedings would commence against an incumbent after the charge-sheet is supplied to him. Under such circumstances, it would be wrong to hold that the petitioner was ineligible under the ineligibility criteria. From Annexure-B it would further appear that the Corporate Centre has given its concurrence.

7. If the petitioner's explanation was already accepted and a simple concurrence is awaited then it would not be just and proper to say that the petitioner was ineligible. Either on the facts or on the interpretation of the ineligibility criteria, I am unable to hold that the petitioner was disentitled from submitting his voluntary retirement or could be denied the benefits of the said claim.

8. Annexure-1 is hereby quashed. The respondents are hereby directed to consider the matter afresh and pass orders in accordance with law.