
(2013) 07 PAT CK 0047
In the Patna High Court
Case No : CWJC No. 20005 of 2011

Kapil Ram

APPELLANT

Vs

The General Manager and Others

RESPONDENT

Date of Decision : 11-07-2013

Acts Referred:

Citation : (2013) 4 PLJR 445

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Advocate : Rajendra Sharma, for the Appellant; Ajay Kumar Sinha, for the Respondent

Final Decision : Allowed

Judgement

Navaniti Prasad Singh, J.—The petitioner is aggrieved by the actions of the Allahabad Bank, a Government of India undertaking in abruptly stopping his pension. This is what brought him to this Court. The pleadings, being complete, with consent of parties, the writ petition is being disposed of at this stage itself. The petitioner superannuated in the year, 1992 as a Peon-cum-Sweeper, Patna City. The petitioner joined Allahabad Bank as it then was in the Patna City in the year, 1950. Having worked as such for about 42 years, in 1992, he retired. Upon retirement, he was receiving pension of Rs. 4,000/- per month through the Allahabad Bank Branch at Phulwarisharif. In September 2010, this poor man suddenly found that an amount of Rs. 50,000/- was credited to his account but his pension was stopped. He made enquiries. He was told that as per Court orders, he was now to get one lump sum gratuity in lieu of pension. The drastic effect of this can be noted from the fact that the petitioner, who was receiving Rs. 4,000/- every month, in a year, Rs. 48,000/-. That would go on for the life of the petitioner but on mere payment of Rs. 50,000/- lump sum as gratuity, this right to receive pension for life was taken away. As noted above, this gratuity is virtually equal to one year's pension. What happened to the employee thereafter is anybody's guess? It is under these circumstances, petitioner moved this Court.

2. On behalf of Bank, Shri Ajay Kumar Sinha, learned counsel pointed out that under the Bank, the retiral scheme was that an employee was to get his contributory provident fund and pension or gratuity but not both. Petitioner had opted for pension and, accordingly, he was not paid gratuity and he was being paid pension. Subsequently, a dispute arose which was resolved by the Apex Court in the case of Allahabad Bank v. All India Allahabad Bank Retired Employees Association since reported in (2010)2 Supreme Court Cases 44 wherein the Apex Court held that payment of gratuity is a statutory liability which cannot be ignored or escaped. The effect was that by that judgment, Bank became obliged to pay all its employees gratuity. Then as the original scheme was for payment of CPF and pension or gratuity, options were called for from all employees whether they would like to continue with pension in which case they would have to refund CPF. There was an additional clause wherein it provided that in case of non-exercise of option or non-refund of CPF, pension could be stopped. This was circulated in September, 2010. As petitioner did not respond, he was paid gratuity and CPF having not been refunded, his pension was stopped. Learned counsel for the petitioner states that for an old man, who had retired a decade back, to be appraised of Circulars of Bank, cannot be expected. There is no dispute that Bank never informed petitioner individually or independently. He further submitted that expecting a retired person now to collect money to refund CPF pursuant to a new scheme formulated after superannuation would not only be unreasonable but could not bind people who had earlier retired. Learned counsel for the petitioner refers to a recent judgment of the Supreme Court in the case of Allahabad Bank Vs. A.C. Aggarwal, The effects are similar and the Apex Court held affirming the order of the Delhi High Court that in view of the earlier judgment of the Apex Court in the case of Allahabad Bank v. All India Allahabad Retired Employees Association, Bank was obliged to pay gratuity being a statutory liability without effecting pension.

3. Having considered the matter, in my view, stopping petitioner's pension was contrary to law and arbitrary as well. A retired employee, who has served the Bank for 42 years and was receiving pension of Rs. 4,000/-, is suddenly told that you are being paid Rs. 50,000/- in one lump sum for all times and you will not get any pension. Rs. 50,000/- is equivalent to one year's pension. What happens thereafter? It appears that single official of the Bank failed to take note of this humanitarian aspect.

4. In my view, the recent judgment of the Supreme Court in the case of Allahabad Bank v. A.C. Aggarwal (supra) closes the matter. The judgment noticed that the writ petitioner in that case, namely, A.C. Aggarwal was entitled to CPF and pension/gratuity. Upon the judgment of the Apex Court in the case of Allahabad Bank v. All India Allahabad Bank Retired Employees Association (supra), Bank became obliged to pay gratuity being statutory liability. Bank could not stop pension. Thus, the employee would be entitled both to pension and gratuity. As noticed above, the scheme was CPF and pension or gratuity. Once the Apex Court said pension and gratuity has to be paid and did not give any

finding or direction for refund of CPF in any manner, Bank cannot insist on that. It must be remembered that CPF is not entirely Bank's money. More than half of it pertains to employees through his career. Therefore, to say that CPF must be returned, cannot be understood.

5. Thus, in my view, stopping of pension to the petitioner cannot be sustained. The writ application is, thus, allowed. Respondent-Allahabad Bank is directed to forthwith restore the pension of the petitioner and pay the arrears since its stoppage upto date within a period of two months from today. No order as to cost.