(2011) 04 P&H CK 0022

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10045 of 2009

K.C. Gupta APPELLANT

Vs

Punjab National Bank, New Delhi and another RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:
Punjab National Bank (Employees) Pension Regulations, 1995 — Regulation 26

Citation : (2012) 166 PLR 121

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—The petitioner has approached this Court to impugn the order, whereby his request for grant of benefit of additional service of maximum 5 years towards qualifying service for pension has been declined. The petitioner joined Punjab National Bank as Clerk-cum-Cashier at the age of 20 years on 8.1.1965. He was selected for service in Hindustan Commercial Bank and so he relinquished his service with the Punjab National Bank on 9.5.1976. The petitioner then was 31 years and 8 months of age. He claims to have joined the service with Hindustan Commercial Bank without any interruption. The petitioner was given 8 advance increments for his past service rendered in Punjab National Bank and his experience was recorded in his service book.

2. In November 1986, Hindustan Commercial Bank merged with Punjab National Bank and the petitioner again became an employee of Punjab National Bank. There was no interruption of service. The petitioner has retired from service on 30.9.2004 on attaining the age of superannuation. The petitioner has claimed that his total service in these three spells works out to be 39 years and 6 months. The petitioner accordingly made representation for refixation of his pension, after giving him credit of his earlier spell of service with respondent-Bank from 8.1.1965 to 9.5.1976. Seeking support from Regulation 26 of Punjab National Bank Employees Pension Regulation, 1995, the petitioner has prayed for

adding another 5 years of service to his qualifying service for pension. The petitioner submitted another representation on 6.2.2006, followed by a legal notice on 22.2.2008. The petitioner then received the impugned order, rejecting his prayer, on the basis of legal opinion to the contrary. The petitioner has accordingly filed this petition.

3. In the reply filed, the respondents would plead that there is no cause for the petitioner to file this writ petition, which is otherwise termed as suffering from laches on account of unexplained delay. The cause, if any, arose to the petitioner in the year 2004, when he retired but has filed this writ petition after 5 years in the year 2009. Respondents would also point out that the petitioner has not approached the Court with clean hands and has concealed the relevant true facts. It is averred that the petitioner had joined the Punjab National Bank on 8.1.1965 but had tendered his unconditional and voluntary resignation from service on 9.5.1976 to join Hindustan Commercial Bank. It is, thus, pointed out that he now can not take a ''U'' turn for counting this service, from which he had submitted unconditional resignation. Rather, it is pointed out that the petitioner had voluntarily given up all his claims while tendering unconditional resignation on 9.5.1976 and, thus, his earlier service came to an end.

4. It is then pointed out that the petitioner is attempting to avail double benefits. In this regard, it is stated that the petitioner was given 8 increments by Hindustan Commercial Bank on account of his experience with the respondent-Bank, when he had joined their service and now adding that service for counting his service for pension would lead to grant of double benefit to him. As per the respondents, the petitioner was also given age relaxation at the time of joining service with Hindustan Commercial Bank and still he is making an attempt to seek additional benefit on the ground that he was late entrant, which would prima-facie show his greed for more monetary benefits only.

5. While contesting the claim of the petitioner on the basis of Regulation 26 for making addition to his qualifying service, the respondents would rely upon an opinion given by Indian Bank Association, copy of which is annexed with the reply as Annexure P8. As per this, the petitioner is not eligible for being granted any additional service towards qualifying service for pension under Regulation 26. Accordingly, prayer is made for dismissing the writ petition as the same lacks in merit.

6. During the course of arguments, the attention of counsel for the petitioner was drawn to the fact that he was given 8 advance increments at the time of joining service with Hindustan Commercial Bank and any grant of benefit of this service now, from which he had resigned, would lead to grant double benefit. The counsel then gave up this claim as agitated in this petition. He, however, prayed that the petitioner would be entitled to additional service under Regulation 26, which reads as under:-

Regulation 26.

Addition to qualifying service in special circumstances.- An employee shall be eligible to ad to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service of the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the bank for direct recruitment or a period of five years, whichever is less, if the service or post to which the employee is appointed is one -

(a) for which postgraduate research, or special qualification or experience in scientific, technological, or professional fields, is essential; and

(b) to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited;

(c) for which the candidate was given age relaxation over and above the maximum age limit fixed by the Bank on account of his possessing higher qualifications of experience:

Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time he quits the service in the Bank is not less than ten years;

Provided further that this concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provisions that the service or post is one which carries benefit of this regulation:

Provided also that the recruitment rules in respect of any service or post which carries the benefit of this regulation shall be made with the approval of the Central Government.

7. No doubt, this Regulation makes a provision for adding service to qualifying service on superannuation, not exceeding 1/4th of the length of service or the actual period, by which the age of the employee at the time of recruitment exceeds the upper age limit but this can be granted only if the service is on the post, which is such for which Post Graduate Research or special qualification or experience in scientific technological or professional field is essential. This is so very clearly provided in Regulation 26 reproduced above. Besides, there are various provisos, which would restrict the adding of the service and this concession shall not be admissible unless his actual qualifying service at the time he quits the service is not less than ten years. This concession is also admissible if the recruitment rules of the service or the post contain specific provision that the service or the post is one, which carries benefit of this regulation. The recruitment rules in respect of service or a post carrying these benefits is to be made with the approval of the Central Government. It is not a case pleaded that the service of the petitioner was such or his post was such which contained a specific provision that it would carry benefit of this regulation. It is even not pleaded if any such provision has been made with the approval of Central Government where service or post of this nature is specified. Even otherwise, the

benefit of this additional service can only be given to those posts or service, for which Post Graduate Research or some special qualification or experience in scientific technology or professional fields is essential. (emphasis supplied) The apparent purpose of this regulation is to grant benefit to those employees posted to a service, where they had spent more time in acquiring the basic qualification at Post Graduate Research level or in acquiring such special qualification or gaining experience in scientific or technological or professional fields. The petitioner can not make any claim in this regard that he is either possessing a qualification where he had any research done at Post Graduate level or he had any special qualification or experience in scientific technological or professional fields. It may need a notice that the petitioner had joined the service of the Bank as a Clerk. Certainly, no special experience in the professional field he would have to boast to make a claim for adding additional service to his pensionable service. Merely because, the petitioner was given age relaxation, would not mean that he would qualify and fulfill the conditions contained in the regulation. It is only the specialist officer, having some qualification, which he would have acquired after basic qualification for the service or a post, on account of which he had joined the service late that the regulation may operate. The petitioner has not shown any special qualification that he may have acquired to claim this benefit. He has only a normal experience to show to his credit, which every other employee of the Bank would have and, thus, he is totally misconceived in claiming this benefit.

The submission that provision now made by the Government should retrospectively apply would also not impress me as basically the petitioner has not made out a case for grant of these benefits under the Regulation as such.

The writ petition, therefore, is dismissed.

