

(2003) 02 JH CK 0013

In the Jharkhand High Court

Case No : Writ Petition (S) No. 6509 of 2002

Lakshman Kumar Verma

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 05-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

State Bank of India Employees Pension Fund Rules, 1955 — Rule 22

Citation : (2003) 2 JCR 394

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Dhananjay Kumar Dubey, for the Appellant; Rajesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioner, who was in the services of the State Bank of India (for short "Bank"), was suspended on 12th January, 1993, proceeded departmentally, and having found guilty, was removed from the services of the Bank by order No. Vig/GEN/958 dated 21st March, 1997.

2. The petitioner when prayed for terminal benefits, including pension, it was rejected vide order No. PPG/AMR/584 dated 8th March, 1999 issued by the Assistant General Manager, PPG Department, State Bank of India, Patna.

To determine the case, it is desirable to quote the ground as mentioned in the order of rejection dated 8th March, 1999, which reads as follows :

"STATE BANK OF INDIA

Sri Lakshman Kumar Verma 170/Chaitali Sreekrishnapuri, Patna : I

PPG/AMR/584

Date 8.3.1999

Dear Sir, Pension

Please refer to your application dated 21.4.1997 for payment of pension.

2. In this connection, we have to advise you that you were removed from the Bank's service on 12.4.1997 and your length of service at the time of removal was only 22 years and 8 days, after reducing 3 years 8 days of your suspension period. Further your age as on 12.4.1997 was 49 years and 7 months only. Hence, you are not eligible for pension as per the SBI Pension Fund Rule 22 quoted below :

(i) after having completed 20 years pensionable, service provided that he has attained the age of 50 years; or if he is in the service of the bank on or after 1.11.1993 after having completed 10 years pensionable service provided that he has attained the age of 58 years,

(ii) after having completed 20 years pensionable service irrespective of the age he shall have attained, if he shall satisfy the Authority Competent to sanction his retirement by approved medical certificate or otherwise that he is incapacitated for further active service,

(iii) after having completed 20 years pensionable service, irrespective of age he shall have attained at his request in writing if accepted by the Competent Authority,

(iv) after 25 years pensionable service.

Yours faithfully Sd/- Asstt. General Manager, PPG Department"

3. The case of the petitioner is that the respondents cannot reduce 3 years and 8 days of service i.e. the period the petitioner was under suspension for computation of pension.

4. According to respondents, the disciplinary authority while removed the petitioner by order dated 21st March, 1997, made it clear that the period of suspension shall not be treated as on duty and for that period he shall not be entitled any benefit, namely, salary, allowance, increments etc. other than subsistence allowance.

5. Admittedly, the petitioner was under suspension for a period of 3 years and 8 days. During this period, the petitioner was paid subsistence allowance but has not been paid salary. As per the order of punishment dated 21st March, 1997, the period of suspension is not to be treated on duty for the purpose of salary, allowance, increments etc. other than the subsistence allowance.

As per Rule 22 of the SBI Pension Fund Rules, as quoted in the letter No. PPG/AMR/584 dated 8th March, 1999, only two categories of employees are entitled for pension, namely, (i) a person, who has completed 20 years of pensionable service and attained the age of 50 years and (ii) a person, who was in the service of the Bank on or after 1st November, 1993, completed 10 years of

pensionable service and attained the age of 58 years.

There is nothing on the record to suggest that the petitioner attained the age of 58 years on the date he was removed from service. Thus, the second part of the Rule 22 is not applicable to him.

So far as the first part i.e. completion of 20 years pensionable service is concerned, the period during which a person actually rendered service can be counted for all purpose. If an employee was under suspension and ultimately it was ordered not to count the period of suspension towards duty, the person cannot claim that he has actually rendered service during the period of suspension, nor can claim to count such period for the purpose of pension.

6. For the reasons aforesaid, I am inclined to accept the grounds shown by the respondents and reject the claim of petitioner.

There being no merit, the writ petition is dismissed.