(2008) 01 P&H CK 0118

In the Punjab And Haryana At Chandigarh

Mehar Singh APPELLANT

Vs

Punjab National Bank and Others RESPONDENT

Date of Decision : 24-01-2008

Acts Referred:

Citation : (2008) 01 P&H CK 0118

Hon'ble Judges : Mohinder Pal, J;Hemant Gupta, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Hemant Gupta, J.—The petitioner has claimed a writ of certiorari for quashing Annexure P-17 dated 17.05.2004 whereby the claim of the petitioner for pension in terms of Punjab National Bank (Employees'') Pension Regulations, 1995, was declined.

2. The petitioner joined respondent Bank on 6.12.1979 as a Clerk in the branch office of the respondent Bank at Panipat. The petitioner was promoted from time to time and attained the age of superannuation while working as Special Assistant.

3. The respondent Bank introduced a pension scheme in the year 1994. After some modification and amendment, the scheme was reintroduced in the year 1995. The said scheme is called PNB (Employees'') Pension Regulations, 1995 (hereinafter to be referred as ?Pension Regulations?). The scheme was circulated vide circular dated 15.11.1995 to all the branches of the respondent Bank. The petitioner opted for the said scheme vide option letter 30.01.1996 though the last date for the option in the scheme was 27.01.1996. It is the case of the petitioner that he has opted for pension in response to first circular dated 27.06.1994 but it appears that the said application was not forwarded to the Regional Office of the respondent Bank.

4. The claim of the petitioner has been declined on the ground that his option to be governed by Pension Regulations has been received after the last date for

receiving option i.e., on or before 27.01.1996. Therefore, the option submitted by the petitioner cannot be treated to be valid option for pension and consequently declined his claim for pension. It was also found that records of the respondent Bank do not show that the petitioner exercised his option in response to the earlier circular dated 27.06.1994.

5. Learned Counsel for the petitioner has vehemently argued that option was exercised within 120 days from the date of circular dated 15.11.1995. In any case, the respondents have accepted the said option to be within time which is reflected in the statement of account of the petitioner''s Provident Fund Account No. 036392 pertaining to the year 1996 to 2002 i.e., for six years, appended as Annexures P-1 to P-6, as having submitted pension option. It is also pointed out that the respondent Bank''s contribution of pension optees have been transferred to the Pension Fund Trust Account, which is evident from the ledger account dated 25.11.1997. Thus, it is alleged that the respondent Bank has considered the petitioner as having duly opted for pension under the Pension Regulations.

6. It is the case of the petitioner that after his attaining the age of superannuation on 28.02.2003, he has not received either pension or commuted value of the pension which was declined vide the order impugned after directions were issued to decide the representation of the petitioner.

7. Controverting the said stand, it was pointed out that the last date stipulated for exercise of option in the circular was 27.01.1996. The petitioner has not exercised option within the time granted. Therefore, by transfer of bank''s contribution towards his pension trust account or he has been reflected as pension optee, the petitioner cannot claim pension. It is admitted in the written statement that the provident fund of the petitioner was remitted to Pension Fund but it was asserted that it was without verifying the date of his pension option. It is asserted that the notified date is the date when the Pension Regulations were notified in the official gazette i.e. 29.09.1995. Therefore, the period of 120 days to submit the option has to be taken from the date of publication of notification and not from the date of issuance of the circular.

8. We need not examine the question whether 120 days given for exercising option is to commence from the date of publication in the official gazette i.e. 29.09.1995 or the date when the circular was first issued by the respondent Bank. In the present case, the respondent Bank has accepted the option given by the petitioner and, in fact, transferred his provident fund amount to the Pension Fund Trust Account from the year 1996 till the date of his retirement. The petitioner was reflected as the one who has opted for pension. Therefore, having acted upon the option of the petitioner, the respondent Bank cannot be permitted to approbate and reprobate to deny the benefit of pension on the ground that option was not received on or before 27.01.1996. The respondent Bank by its own act and conduct has condoned the delay, if any, in submission of the option. It is not open to the respondent Bank to assert that the option was not submitted within time after the petitioner attained the age of superannuation. Throughout

for a period of more than six years, the petitioner was reflected as an optee for pension. There was no contribution of the respondent Bank towards the Contributory Provident Fund of the petitioner. In view of the said fact, we are of the opinion that the action of the respondent Bank in declining pension on the ground that the option was not received on or before 27.01.1996 after attaining the age of superannuation is wholly unsustainable and consequently the same is set aside.

9. In view of the above, we allow the present writ petition and direct the respondent Bank to release the pensionary benefits to the petitioner in terms of his option within three months from today. However, if the pensionary benefits are not released to the petitioner within the said petitioner, the petitioner shall be entitled to interest at the rate of 9% per annum from the date the pensionary benefits became due to him till its disbursement.

