

(2013) 10 SC CK 0066

In the Supreme Court Of India

Case No : Civil Appeal No. 9172 of 2013 (Arising out of Special Leave Petition (Civil) No. 31483 of 2012)

Punjab National Bank and Others

APPELLANT

Vs

Ram Kishan

RESPONDENT

Date of Decision : 18-10-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100, 96
Constitution of India, 1950 — Article 136
Punjab National Bank (Employees) Pension Regulations, 1995 — Regulation 14, 28, 29, 32
Voluntary Retirement Scheme,

Citation : (2013) 10 AD 637 : AIR 2014 SC 27 : (2013) 4 AKR 699 : (2013) 6 AWC 5618 : (2013) 13 JT 580 : (2014) LabIC 1589 : (2013) 12 SCALE 726 : (2014) 1 SCT 241 : (2014) 1 SLJ 127 : (2014) 3 WBLR 60 : (2013) 4 WLN 165

Hon'ble Judges : Ranjana Prakash Desai, J;A.K. Sikri, J

Bench : Division Bench

Advocate : Yashraj Singh Deora, for M/s. Mitter and Mitter and Co, for the Appellant; G. Ananda Selvam, for Ravindra Keshavrao Adsure, for the Respondent

Final Decision : Disposed Of

Judgement

A.K. Sikri, J.—Leave granted.

2. The facts which need narration for determination of the lis involved in this appeal are recapitulated as under:

3. The Respondent herein joined the Appellant-Bank as Peon on 13.8.1986. In the year 2000, the Appellant-Bank introduced Voluntary Retirement Scheme known as Punjab National Bank Employees Voluntary Retirement Scheme 2000 (hereinafter referred to as "VRS, 2000"). This scheme was widely circulated, period whereof was 1.11.2000 to 30.11.2000 during which period those employees who wanted to seek voluntary retirement under the said scheme were permitted to apply. It was made applicable to those permanent full time employees of the Bank who had completed 15 years qualifying service or 40

years of age which means those employees fulfilling either of the aforesaid conditions were eligible to apply under the VRS, 2000.

4. The Respondent also sought voluntary retirement under this scheme. His application was accepted and he was given voluntary retirement on 15.12.2000. He was also accorded superannuation benefits like Provident Fund, Gratuity and Leave Encashment.

5. The Bank has also Pension scheme for its employees which is known as Punjab National Bank (Employees) Pension Regulation 1995 (hereinafter referred to as the "Pension Regulation"). As per Regulation 28 of these Pension Regulations, an employee who has rendered a minimum period of 15 years of service is entitled to get pension. Regulation 28 of the Pension Regulation reads as under:

Regulation 28: Superannuation pension.

Superannuation Pension shall be granted to an employee who has retired on his attaining the age of superannuation specified in the Service Regulations or Settlement.

Provided that with effect from 1.9.2000, pension shall also be granted to an employee who opts to retire before attaining the age of superannuation, but after rendering service for a minimum period of 15 years in terms of any scheme that may be framed for such purpose by the Board with the approval of the government.

6. As on the date of voluntary retirement of the Respondent, the Respondent had not completed 15 years of service. In fact, service rendered by him as on that date was 14 years 2 months and 19 days. For this reason, the Appellant-Bank did not issue any Pension Order in his favour. The Respondent, however, pleaded that since his application for voluntary retirement under VRS, 2000 was accepted which lays down the conditions of service for a minimum period of 15 years, the Respondent became entitled to pension as well, inasmuch as the deficit period was waived by the Appellant-Bank by its conduct in accepting the application for voluntary retirement.

7. As the representation of the Respondent to grant him pensionary benefits was rejected by the Appellant-Bank, aggrieved by the order of rejection, the Appellant filed civil suit in the court of Civil Judge (Senior Division), Gurdaspur, Punjab for declaration that he was entitled to pension with consequential relief and for mandatory injunction to direct the Appellant-Bank to release all the benefits along with interest at the rate of 18% from the date it had become due to him. This Suit was, however, dismissed by the Civil Court vide judgment and decree dated 29.8.2003 holding that pension could be granted only on completion of 15 years of service which period of service the Respondent had not completed. He was, therefore, held entitled to other benefits like ex-gratia, gratuity and leave encashment but not the pension. The Respondents filed Regular First Appeal against the aforesaid judgment u/s 96 of the CPC (Code of

Civil Procedure) read with Order 41 Code of Civil Procedure. This Civil Appeal also met with the same fate as it was dismissed affirming the judgment of the Trial Court. Still aggrieved, the Respondent took the matter to the High Court of Punjab and Haryana by filing Regular Second Appeal u/s 100 of the Code of Civil Procedure. By impugned judgment dated 13.3.2012, the High Court has allowed the Second Appeal. In this judgment, there is no detailed discussion touching upon the provisions contained in VRS, 2000 or the Pension Regulations. A bare reading of the judgment reveals that the Court has followed its earlier Division Bench judgment rendered in the case of Dharam Pal Singh Vs. Punjab National Bank and Others, Against this impugned judgment, Bank filed instant SLP under Article 136 of the Constitution of India wherein leave has been granted.

8. Submission of the learned Counsel for the Appellant was that the High Court committed a grave error in following Dharam Pal case, ignoring that the said judgment in the case of Dharam Pal Singh (supra) of the Division Bench of the High Court had already been overruled by this Court on 24.2.2011 in Civil Appeal No. 2132/2011.

9. This position could not be disputed by learned Counsel for the Respondent. A perusal of the judgment of this Court in Dharam Pal Singh (supra) (CA 2132/2011) would demonstrate that the issue involved in the case had already been determined by this Court in Bank of Baroda and Others Vs. Ganpat Singh Deora, where the identically worded Regulations were considered. The Court, thus, found that the judgment of the High Court in Dharam Pal Singh was contrary to the decision in Bank of Baroda case and set aside the same. In Bank of Baroda, this Court has held that unless 15 years service is rendered by an employee, he will not be eligible for pensionary benefits. To quote the relevant discussion on this aspect, we reproduce the following passage therefrom:

Furthermore, Regulation 2 of the Voluntary Retirement Scheme, 2001, of the Appellant-Bank merely prescribes a period of qualifying service for an employee to be eligible to apply for voluntary retirement. On the other hand, Regulations 14 and 29 of the Pension Regulations, 1995, relate to the period of qualifying service for pension under the said Regulations, in two different situations. While Regulation 14 provides that in order to be eligible for pension an employee would have to render a minimum of 10 years service, Regulation 29 is applicable to the employees choosing to retire from service pre-maturely, and in their case the period of qualifying service would be 15 years. The facts of this case, however, do not attract the provisions of Regulation 29 since the Respondent accepted the offer of voluntary retirement under the Scheme framed by the Bank and not on his own volition de hors any Scheme of Voluntary Retirement. In such a case, Regulation 14 read with Regulation 32 providing for premature retirement would not also apply to the case of the Respondent. While Regulation 2 of the BOBEVRS-2001 speaks of eligibility for applying under the Scheme, Regulation 14 of the Pension Regulations, 1995, contemplates a situation whereunder an employee would be eligible for premature pension. The two provisions are for

two different purposes and for two different situations. However, Regulation 28 of the Pension Regulations, 1995, after amendment made provision for situations similar to the one in the instant case. In the absence of any particular provision for payment of pension to those who opted for BOBEVRS-2001 other than Regulation 11(ii) of the Scheme, we are once again left to fall back on the Pension Regulations, 1995, and the amended provisions of Regulation 28 which brings within the scope of Superannuation Pension employees who opted for the Voluntary Retirement Scheme, which will be clear from the Explanatory Memorandum. However, the period of qualifying service has been retained as 15 years for those opting for BOBEVRS-2001 and is treated differently from premature retirement where the minimum period of qualifying service has been fixed at 10 years in keeping with Regulation 14 of the Pension Regulations, 1995.

We are, therefore, of the view that not having completed the required length of qualifying service as provided under Regulation 28 of the 1995 Regulations, the Respondent was not eligible for pension under the Pension Regulations, 1995, of the Appellant Bank.

10. Accordingly, we allow this appeal and set aside the impugned judgment of the High Court. No costs.