

(2006) 02 DEL CK 0096
In the Delhi High Court
Case No : LPA 396 of 2001

Punjab National Bank

APPELLANT

Vs

C.S. Sanon and Others

RESPONDENT

Date of Decision : 13-02-2006

Acts Referred:

Citation : (2006) 02 DEL CK 0096

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Raj Birbal, R.S. Mathur and Gautam Dutta, for the Appellant; Chetan Sharma and Ashok Bhalla for R-2, 5, 13 and 20, Shailendra Bhardwaj and P.R. Dhanias for R-3, 4, 6, 7, 10, 14, 15, 16, 17 and 21, Mahabir Singh Nikhil Jain, Madhusmita Bora, Gagandeep Sharma for R-9, Meenakshi Arora, for R-11 and 12, Bharat Bhushan, Harish Sharma and B.K. Saini for R-1, 8 and 19, for the Respondent

Final Decision : Allowed

Judgement

Markandeya Katju, C.J.—This writ appeal has been filed against the impugned judgment of the learned Single Judge dated 24.7.2001 by which he has allowed the writ petition. By the aforesaid judgment dated 24.7.2001, 27 writ petitions were disposed of.

2. Heard learned counsel for the parties and perused the record.

3. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same except where necessary.

4. The writ petitioners (respondents in this appeal) were employees of the Punjab National Bank which is a nationalized bank. The Board of Directors of the bank in its meeting held on 21.9.2000 approved the Voluntary Retirement Scheme called the PNB Employees Voluntary Scheme 2000 (hereinafter referred to as the scheme) by an office circular dated 29.9.2000.

5. A copy of the scheme is annexure "A" to the writ petition and its relevant part

have been quoted in para 4 of the writ petition.

6. Mr. Raj Birbal, learned counsel for the appellant submitted that in view of the decision of the Supreme Court in *Bank of India and Others Vs. O.P. Swarnakar etc.*, which was followed in several Supreme Court decisions e.g. in *Punjab National Bank Vs. Virender Kumar Goel and Others*, *Bank of India and Others Vs. Pale Ram Dhanial*, *State Bank of Patiala Vs. Romesh Chander Kanoji and Others*, and *Punjab and Sind Bank and Another Vs. S. Ranveer Singh Bawa and Another*, those employees who had opted under the Voluntary Retirement Scheme and had been paid the amount could not be allowed to subsequently withdraw the application of voluntary retirement if they had utilized even a part of the amount which had been paid to them.

7. Mr. Raj Birbal submitted that respondent No. 1 Sh.C.S.Sanon and respondent No. 18 Sh.Ashok Kumar Shukla had not utilized the amount of Voluntary retirement scheme which had been paid to them and hence they were allowed to withdraw their application for the scheme and they have been permitted to continue in the service of the bank.

8. Mr. Birbal submitted that all other respondents who had been paid the voluntary retirement amounts had utilized the same in different manners and hence they were not entitled to withdraw their application for voluntary retirement in view of the judgment of the Supreme Court in *Bank of India v. O.P. Swarnakar* (supra) and other decisions referred to above.

9. We may, Therefore, consider whether respondents other than respondents 1 and 18 in this appeal had utilized the VRS amounts deposited in their bank accounts under the VRS Scheme by the appellant.

10. Mr. Raj Birbal has submitted details which are part of the record of this appeal showing the utilization of VRS amounts in various manners by the respondents. We may, Therefore, consider some of them separately.

11. As regards respondent No. 2, C.P.Vig, he had an amount of only Rs. 5,000/- in his Saving Bank Account at the time when the VRS amount of Rs. 1,50,000/- was deposited on 2.1.2001 and further amount of Rs. 2,66,105.46 deposited on 31.1.2002 as Ex gratia (cash component), Rs. 4,15,000.00 on 25.1.2001 as Ex gratia (bond component) and Provident Fund amount of Rs. 5,19,742.88 on 24.4.2001, Gratuity amount of Rs. 2,30,311.00 on 26.3.2001 and leave encashment amount of Rs. 1,50,789.00 on 2.1.2001.

12. Sh.C.P.Vig withdrew an amount of Rs. 58,000.00 on 4.1.2001, Rs. 54,600.00 on 5.1.2001, transferred Rs. 4,00,000.00 on 1.3.2001 to MBO, withdrew Rs. 5,25,000.00 on 1.5.2001 and withdrew Rs. 80,000.00 on 25.8.2001 for the purpose of D.D. in the name of NIT Faridabad.

13. Thus, a perusal of the these facts shows that Sh.C.P.Vig had utilized large amounts from the VRS amount deposited by the bank in his Saving Bank Account. Hence, he cannot withdraw his application for voluntary retirement.

14. As regards respondent No. 3, Ms.Achala Kochar, she had an amount of only Rs. 11,244.83/- in her Saving Bank Account at the time when the VRS amount was deposited including Provident Fund, Gratuity and leave encashment. She withdrew Rs. 3,86,221.13 on 5.3.2001 and further amount of Rs. 10,650.00 on 23.3.2001 towards adjustment of personal loan. She further withdrew amount of Rs. 3,91,786.51 on 16.4.2001 for ODD and Rs. 3,91,785.51 on 16.4.2001 for herself.

15. These facts also show that respondent No. 3 had utilized part of VRS amount which was deposited by the appellant in her S.B. account. Hence she cannot withdraw her application for voluntary retirement. It is not necessary for us to go further into the details about other respondents as the accounts are on record and they show that part of the amounts deposited under the V.R.S. had been utilized by the respondents in various ways. It may be mentioned that utilization can be both for personal consumption as well as for investment. For instance, if a person puts a certain amount which was lying in his/her Saving Bank Account and makes a Fixed Deposit of that amount, this is also utilization because the Saving Bank account gives less interest whereas a Fixed Deposit gives higher interest. In fact this has been specifically held as such by the Supreme Court in the decision of Supreme Court in Punjab & Sind Bank v. S.Ranveer Singh Bawa (supra), vide paragraph 8 of the said judgment in which it was held that utilization of the VRS amount for repaying loans, making FDRs etc. is also utilization of the amount .

16. Mr. Mahabir Singh, learned counsel for respondent No. 9, Mr. Pradeep Kumar Aggarwal, submitted that VRS amount has not been utilized by respondent No. 9. However, we cannot agree with this submission. Before deposit of VRS amount, he had a sum of Rs. 1807.62 in his Saving Bank Account. The VRS amount deposited in the said account was around Rs. 14 lakhs. He withdrew a sum of Rs. 24,000.00, Rs. 58571.00 and Rs. 62791.00 for self on 6.1.2001. Thus, on the same date he withdrew large amounts. Thereafter, on 8.6.2001, he made special FDR of Rs. 64,000.00. Thus, this clearly shows that he utilized the VRS amount.

17. Ms.Meenakshi Arora, learned counsel for respondents 11 and 12 submitted that respondents did not utilize the VRS amount. However, we cannot accept her submission in view of the facts on record.

18. As regards respondent No. 11, Sh.Satya Pal Varma, before deposit of VRS amount he had a sum of Rs. 22,575.93 in his Saving Bank Account in the Bank. The VRS amount of Rs. 18 lakhs including PF, gratuity and leave encashment was deposited in his account. He withdrew and transferred Rs. 2,50,000/- for Housing Loan on 5.1.2001 and amount of Rs. One lakh also for Housing Loan on 5.1.2001. He transferred an amount of Rs. 5,30,127.20 to his own suspense account. He issued a cheque of Rs. 15,000.00 on 22.5.2001 in favor of Monika Verma and Rs. 20,000 in the name of Ram Pal Singh and Rs. One lakh in the name of M/s Continental Inc.

19. Thus, this shows that respondent No. 11 also had utilized part of the VRS amount and hence he cannot withdraw his application.

20. As regards respondent No. 12, Sh.Suraj Bhan, before the VRS amount was deposited in his bank account, he had a sum of Rs. 49,457.00 in his SB Account in the bank. A total of about Rs. 6.50 lakhs VRS amount was deposited. He withdrew Rs. 5 lakhs on 29.8.2002 towards FDMB which is a type of Fixed Deposit giving more interest than the SB Account. He further withdrew Rs. 30,000.00 and Rs. 20,000.00 on 1.11.2002 towards self.

21. Thus, respondent No. 12 had also utilized part of the VRS and hence he cannot withdraw his application for voluntary retirement.

22. It is not necessary for us to go into further details as we have carefully perused the entire voluminous record which discloses that except for respondent Nos. 1 and 18, every respondent had utilized at least part of the VRS amount deposited by the bank in their Saving Bank Account either for personal consumption or for investment. Hence, these respondents cannot withdraw their applications for voluntary retirement.

23. For the reasons given above, the appeal is allowed and impugned judgment is set aside except that respondents 1 and 18 are already working and they may continue to work.