
(1985) 08 RAJ CK 0019
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1782 of 1983

Ratan Chand Gauri

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision : 22-08-1985

Acts Referred:

Citation : (1985) WLN 239

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ashok Kumar Mathur, J.—The petitioner by this writ petition has challenged the order of compulsory retirement from the service dated 20th June, 1983 (Annexure R/1).

2. The petitioner was in service of the Punjab National Bank (here in after referred as the respondent Bank) and was posted at Jodhpur as Regional Manager. The respondent Bank after review of the service record of the petitioner compulsorily retired him from service under Regulation 19 of the Punjab National Bank (Officers) Service Regulations, 1979 (here in after referred as the Regulations).

3. This writ petition runs into marathon size writ petition, amendment, reply to the writ petition and rejoinder, reply to rejoinder etc. and it is not necessary to record all the facts given in the writ petition & the reply and the rejoinder to the reply. Primarily four questions have been placed by the learned counsel for the petitioner for my consideration, namely, that the respondent Bank has not complied with the condition precedent of three months pay and allowance in lieu of notice before retiring the petitioner from service in terms of Regulation 19 of the Regulations. Secondly that there is no order of compulsory retirement from the competent authority and thirdly that there was no material on which the petitioner could have been retired compulsorily. Lastly, that certain

uncommunicated adverse entries have been utilised by the respondent Bank in compulsorily retiring the petitioner from the service.

4. In order to appreciate the first contention it will be relevant to reproduce the Regulation 19 of the Regulations and the same is reproduced as under:

19. (1) The age of retirement of an officer employee shall be as determined by the Board in accordance with the guidelines issued by the Government from time to time:

Provided that the Bank may, at its discretion on review by the Special Committee as provided here in after in Sub-regulation (2) retire an officer employee on or at any time after the completion of 55 years of age or on or at any time after the completion of 30 years of total service as an officer employee or otherwise, whichever is earlier;

Provided further that before retiring an officer employee, at least three months' notice in writing or an amount equivalent to three months' substantive salary/ pay and allowances, shall be given to such officer employee;

Provided also that nothing in this regulation shall be deemed to preclude an officer employee from retiring earlier pursuant to the option exercised by him in accordance with the rules in the Bank.

Explanation:

An officer employee will retire on the last day of the month in which he completes his age of retirement.

(2) The Bank shall constitute a Special Committee, consisting of not less than three members, to review, whether an officer employee should be retired in accordance with the first proviso to this regulation. Such Committee shall, from time to time, review the case of each officer employee and no order of retirement shall be made unless the special Committee recommends in writing to the Competent Authority the retirement of the officer employee.

5. According to the learned counsel for the petitioner that the order dated 20th June, 1983 was not served on petitioner along with the draft of three months pay and allowances in lieu of three months notice. According to the petitioner he was serving in the Bank upto 20th June, 1983 and no such order of compulsory retirement and amount of three months pay and allowances was served on the petitioner. As against this the respondent Bank has taken a reverse position. According to the respondent Bank the order dated 20th June, 1983 retiring compulsorily the petitioner from services with effect from 20th June, 1983 forenoon along with a cheque of Rs. 11,120.04 issued in favour of the petitioner in lieu of three months notice pay and allowances was sent at the house of the petitioner with the peon. According to the respondent Bank the petitioner having come to know about the said order did not turn up to the Bank premises and avoided the service of the same. It is further alleged that the same order was

sent by registered post on 21st June, 1983 though this date has been subsequently amended by filing an additional affidavit that 21st June, should be read as 20th June, 1983 as it is typographical error. Then again it is submitted that it was sent through Bank on 21st June, 1983 at the residence of the petitioner but the petitioner's house was locked and he dropped the letter inside the petitioner's house. The detailed facts given by the respondent Bank find place at page 193 in the reply to the amended writ petition filed by the respondent Bank. The Bank has taken a very shaky position and it is an admitted fact that the order dated 20th June, 1983 was not served on the petitioner on the same day. The learned counsel for the respondent Bank Mr. Mehta strenuously urged that all the possible efforts were made to serve the petitioner with order but he deliberately avoided the service. After perusing the reply it clearly transpires that the order was not served on the petitioner on 20th June, 1983 nor the cheque along with the order. According to Regulation 19 it is a condition precedent that three months pay and allowances should have been paid to the petitioner before effecting the order of compulsory retirement. It has been submitted that twice the peon was sent at the house of the petitioner and the house of the petitioner was locked. There is no affidavit of the peon to this effect that he went to the house of the petitioner and it was locked. It is further stated that the order was sent by registered post A.D. on 20th June, 1983 but the A.D. receipts has not been placed on the record nor is there any affidavit of the peon to this effect that he has dropped this letter inside the petitioner's house. It may be the petitioner avoided the service but according to the statutory duty cast on the employer that the order of compulsory retirement should be accompanied with the three months pay and allowances in lieu of the three months notice is mandatory and there cannot be any go from this situation. In this connection the learned counsel for the petitioner has placed reliance on *Kanhaiya Lal v. Union of India and Ors.* 1982 (2) SLR 84, in some what identical situation this Court has taken the view that it is the duty of the respondents to pay three months pay and allowances along with order of compulsory retirement. It is for the respondent to serve the order along with the pay and allowance in lieu of three months notice.

6. The same view was also taken by this Court in *Rajasthan Canal Project v. Rajasthan Canal Rashtriya Mazdoor Union* RLW 1976 636.

7. In this back ground I think that the petitioner was not paid the three months pay and allowances in lieu of three months notice, therefore, order dated 20th June, 1983 (Annexure R/1) deserves to be quashed on this ground. Since I am accepting this writ petition on this short question I need not decide other contentions raised by the petitioner.

8. Mr. Mehta has brought to my notice the unreported case of *Banwari Lal Sharma v. Sunil Syncham Ltd. and Anr.* S.B. Civil Writ Petition No. 1098 of 1983 decided on November, 1983. But this case does not help the petitioner because the question of service of notice was not decided by the learned Judge.

Therefore, this case does not help Mr. Mehta in any manner.

9. In the result, I allow this writ petition and quash the order dated 20th June, 1983 (Annexure R/1). In the facts and circumstances of the case the parties shall bear their own costs.