(2012) 01 DEL CK 0502

In the Delhi High Court

Case No : Writ Petition (C) No. 3415 of 2010

R.C. Vasudev APPELLANT

Vs

Punjab National Bank RESPONDENT

Date of Decision : 24-01-2012

Acts Referred:

Citation : (2013) 2 AD 559

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Piyush Sharma and Mr. K.G. Mishra, for the Appellant; Rajat Arora, for the Respondent

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—By means of the present petition, the petitioner who was an employee of the respondent/Punjab National Bank seeks the relief of setting aside of the orders passed by the respondent-bank dated 10.12.2002 and 22.06.2009 in not treating the petitioner as a pension optee under the scheme for which the cut-off date was 30.10.1994. Before me, it could not be disputed on behalf of the respondent-bank that petitioner had in fact applied as a pension optee under the scheme of which cut-off date was 30.10.1994, inasmuch as, a specific letter dated 16.10.2002 to this effect was written by the concerned officer of the bank to the Chief Manager of the Pension Fund Department at Head Office at New Delhi. This letter dated 16.10.2002 therefore is unquestionable record of the respondent-bank itself and which shows that the petitioner had duly exercised the option for the pension under the 1994 scheme (which got converted to a regular PNB (Employees) Pension Regulations, 1995 and reference in this order to the 1994 scheme will be read accordingly).

2. The petitioner on the pension not being credited to his account wrote a letter dated 14.6.2002 to the respondent -bank which reads as under:-

The Chief

P.F. Department

Rajendra Bhawan, Rajendra Place

New Delhi (Through Regional Office, South Delhi Region)

Reg: P.F.A/c No. 021495-

R.C. Vasudeva

On receipt of my P.F. statement for the period October 2001 to March 2002, it has been observed that the statement does not reflect the status of my pension option and that the amount of Bank''s contribution has not been transferred to Pension Fund.

In connection with the above, I state that I had opted for pension on the very first offer made by the Bank and that my P.P. statements being received thereafter do reflect my pension option as "YES" and the amount of Bank''s contribution were being regularly transferred to Pension Fund. For your ready reference, I am enclosing herewith copies of my P.F. statements for the period October 2000 to March, 2001, April 2001 to October 2001 and October 2001 to March 2002.

You are requested to kindly look into the matter and rectify the error in your records accordingly i.e., my pension option be treated as "YES".

(R.C. VASUDEVA)

Chief Manager

3. The consideration of this representation by the petitioner took a long time and ultimately Appellate Authority rejected the representation vide letter dated 22.6.2009 leading to filing of this writ petition in the year 2010.

4. Learned counsel for the respondent-bank has made two submissions before me. The first submission was that the record compilation by the bank did not show the petitioner as a pension optee under the 1994 scheme, and the second submission was of delay and laches disentitling the petitioner to the reliefs claimed in the writ petition.

5. So far as the first aspect is concerned, merely because the bank mixes up its record and losses vital documents cannot mean that the petitioner did not exercise his pension option inasmuch as the respondent-bank has not questioned the existence of its inter-office communication dated 16.10.2002 which is relied upon by the petitioner. Once the letter dated 16.10.2002 is admitted, I fail to understand as to how an excuse of the bank of not having the relevant record can be taken up. In the face of the inter-office communication dated 16.10.20021 reject the argument urged on behalf of the respondent-bank that the petitioner had not exercised the option under 1994 scheme for pension.

6. So far as the issue of delay and laches is concerned, the petitioner

represented to the respondent-bank way back on 14.6.2002, and ultimately, the Appellate Authority rejected the claim of the petitioner on 22.6.2009, therefore, this petition was consequently filed in May, 2010. Accordingly, I do not find that there is any delay and laches in approaching this court inasmuch as this court will only be approached when all the remedies available to the petitioner in the respondent-bank are exhausted, and which were finally exhausted when the Appellate Authority passed the order dated 22.6.2009.

7. In view of the above, the writ petition is allowed and the petitioner will be treated as a pension optee under the 1994 scheme which had a cut-off date of 30.10.1994. All necessary monetary benefits of pension will flow to the petitioner as if he was a pension optee under 1994 scheme. In case any amounts have already been paid by the respondent-bank to the petitioner, the respondent-bank will be entitled to adjust the amounts. The petitioner will also be entitled to interest at the rate of 9% per annum simple, subject however to the fact that the interest will only be payable on the net balance payable to the petitioner after the respondent-bank makes necessary adjustments in accordance with law. The petitioner will be entitled to interest from 14.6.2002 on all arrears to be due and payable till the time the actual monetary benefits are paid to the petitioner taking the petitioner to be a pension optee under the 1994 scheme. Petition stands allowed and disposed of with the aforesaid observations leaving the parties to bear their own costs.