

(2015) 01 P&H CK 0295

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19891 of 2011

Satyawan

APPELLANT

Vs

State Bank of Patiala and Others

RESPONDENT

Date of Decision : 28-01-2015

Acts Referred:

Citation : (2015) 3 SCT 214

Hon'ble Judges : Satish Kumar Mittal, J;Deepak Sibal, J

Bench : Division Bench

Advocate : Rajesh Khandelwal, for the Appellant; Vikas Chatrath, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Sibal, J.—The petitioner was a member of the Indian Air Force from 19.01.1989 to 24.05.1998. He resigned from the Indian Air Force w.e.f. 25.05.1998 as he was selected as a Probationary Officer in the respondent - State Bank of Patiala (hereinafter referred to as - the Bank) and joined his duty as such on 01.06.1998. He made a request to the Bank for counting his service with Indian Air Force towards qualifying service for pension. The same was denied on the basis of Regulation 24 of the State Bank of Patiala (Employees) Pension Regulations, 1995 (hereinafter referred to as - the Regulations). The action of the Bank, denying to count the service of the petitioner, towards qualifying service for pension, as also the vires of Regulation 24 of the Regulations, is challenged by the petitioner through the present writ. We have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

2. The Bank is a body corporate constituted under the State Bank of India (Subsidiary Bank) Act, 1959 (hereinafter referred to as - the Act). In exercise of powers vested by virtue of Section 63 of the Act, the Bank has made its Regulations for the purpose of granting pensionary benefits to its employees. Regulation 24 of the Regulations, which has been challenged by the petitioner, is

reproduced below for ready reference:--

"24. Regulation 24 - Military Service:- An employee who has rendered military service before appointment in the Bank shall continue to draw the military pension, if any, and military service rendered by the employee shall not count as qualifying service for pension."

3. The above Regulation clearly lays down that an employee, who has rendered military service before appointment in the Bank, shall continue to draw the military pension, if any and that the military service rendered by him shall not count towards qualifying service for pension. The above Regulation is clear and needs no further interpretation. It clearly provides that no benefit of military service is to be granted to an ex-serviceman on his appointment as an employee of the Bank for the purpose of counting that service as qualifying service for pension.

4. We do not find the above Regulation to be unreasonable or arbitrary. Rather we find the same to be perfectly justifiable. The benefit of military service cannot be claimed as a matter of right by an ex-serviceman unless that right is backed by any Statute or statutory regulation or instruction etc. The benefit of military service is in the form of a concession given to an ex-serviceman and if an autonomous body like the respondent-Bank decides not to extend that concession, then the same cannot be got enforced through a Court of law, as is being sought to be done by the petitioner.

5. The petitioner voluntarily resigned from the service of the Indian Air Force to join the respondent-Bank. At the time when he joined the Bank, the above Regulations was in force. It can thus safely be presumed that he joined the service of the Bank, while in full knowledge of the fact that his earlier military service would not be counted towards qualifying service for pension. The petitioner is thus held not entitled to the relief prayed for by him.

6. The view taken by us above finds support from the judgment of the Apex Court in State Bank of India Vs. L. Kannaiah and Others, AIR 2003 SC 3860 : (2005) 3 ESC 455 : (2005) 11 JT 326 : (2003) 3 LLJ 1070 : (2003) 6 SCALE 603 : (2003) 10 SCC 499 : (2004) SCC(L&S) 322 : (2003) 2 SCR 735 Supp : (2004) 1 SLJ 315 : (2003) AIRSCW 4432 : (2003) 6 Supreme 374 . The relevant portion of the judgment is reproduced below:--

"...However, there is nothing in the circular which obligates the Managements of the Banks to add the military service to the service rendered in the Bank for the purpose of pension. Such benefit was directed to be given only in regard to sanction of loans and for the purpose of promotion, in a limited way. Therefore, the contention of the said two Appellants has no merit."

Closer home, a Division Bench of this Court, in the case of Ex. Capt. S.S. Ahluwalia v. Union of India reported as 1994 (2) S.C.T. 224 has held as under:--

"...The right to claim the benefit of military service is not a right which inheres in

every officer who is an ex-Army personnel but such rights are to be regulated by service rules or other executive orders determining their terms and conditions of employment. There being no rule for the grant of the benefit of military service for purposes of seniority governing officers like the appellant nor any executive direction in this regard they are not entitled to any such benefit. The learned Judge was, therefore, right in dismissing the claim of the appellant for the said benefit."

In view of the above, the present writ petition is ordered to be dismissed, but with no order as to costs.