

(2016) 03 AHC CK 0135

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 61064 of 2015.

S.C. Mishra

APPELLANT

Vs

Bank of Baroda and Others

RESPONDENT

Date of Decision : 28-03-2016

Acts Referred:

Bank of Baroda (Officers Service) Regulations, 1979 — Regulation 20(3)

Citation : (2016) 4 ADJ 726 : (2016) 6 AILJ 663 : (2016) 3 AllWC 3032 :
(2016) 116 ALR 691 : (2016) 2 CLR 319 : (2016) 150 FLR 427 : (2016) LabLR 999

Hon'ble Judges : Tarun Agarwala; Mukhtar Ahmad, JJ.

Bench : Division Bench

Advocate : Vikrant Pandey and Shailendra Kumar Awasthi, Advocates, for the Appellant; Anadi Krishna Narayana and Ashok Trivedi, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard Sri Vikrant Pandey, learned counsel for the petitioner and Sri Ashok Trivedi, learned counsel for the respondents.

2. The petitioner was working as the Branch Manager and was issued a charge-sheet on 16th January, 2013. On 31st January, 2013, the petitioner retired on reaching the age of superannuation. In spite of retiring from service the disciplinary proceedings continued in which the petitioner participated and eventually an order of penalty for recovery of an amount of Rs. 50,000/- was passed against the petitioner on 31st March, 2014. The petitioner being aggrieved by this order has filed the present writ petition for its quashing and for refund of the amount so deducted.

3. The short contention raised by the learned counsel for the petitioner is that no disciplinary proceeding could continue against the petitioner after the petitioner retired upon reaching the age of superannuation. In support of his contention learned counsel for the petitioner has placed reliance upon the decision of the

Supreme Court in Chandra Singh and others v. State of Rajasthan and another reported in (2003)6 SCC 545 and Anant Kumar Kulkarni v. Y.P. Education Society and others reported in (2013) 6 SCC 515 and another Division Bench decision of this Court in Rajya Krishi Utpadan Mandi Parishad and Anr. v. Public Service Tribunal, U.P. and Ors. Reported in 2008(1) LBESR 855.

4. In all the aforesaid decisions the basic principle enunciated therein is that a domestic inquiry can be held against an employee after retirement upon reaching the age of superannuation only if the Rules governing the service conditions permit the employer to do so.

5. The question thus, that arise for consideration is, whether in the instant case there are rules framed by the respondent-Bank permitting the continuation of the disciplinary proceedings which was initiated while the employee was in service after reaching the age of superannuation. In this regard, we find that the Rules governing service conditions of the petitioner is the Bank of Baroda (Officers) Service Regulations, 1979 (hereinafter referred to as the Regulations of 1979). Regulation 20(3)(iii) being the relevant regulation is extracted here under-

"29(3)(iii) The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contributions to CPF."

6. A perusal of the aforesaid Regulation indicates that the disciplinary proceedings could continue against an officer even after he ceases to be in service on the date of superannuation. In the light of the aforesaid provision, we are of the opinion that the decisions cited by the learned counsel for the petitioner are not applicable. There is a clear provision given in the Regulation of 1979 which is applicable upon the petitioner which permits the employer to continue with the disciplinary proceedings even after the officer ceases to be in service on the date of superannuation.

7. Learned counsel for the petitioner contended that Regulation 20(3)(iii) of the Regulations of 1979 are not applicable in the instant case in as much as, it relates to the termination of service which is a major penalty whereas, in the instant case the petitioner was only given a minor penalty. Learned counsel contended that the disciplinary proceedings could continue after superannuation only with regard to the imposition of a major penalty but could not continue the disciplinary proceedings with regard to a minor penalty.

8. The argument of the learned counsel for the petitioner in the first blush was found to be attractive but on a closer scrutiny we find that the said submission is untenable. We find that in exercise of the powers conferred under Section 19 of

the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Board of Directors of the Bank of Baroda in consultation with the Reserve Bank of India framed a regulation, namely, "Bank of Baroda Officers Employees" (Discipline and Appeal) Regulations, 1976" (hereinafter referred to as the Regulations of 1976). Regulation 5 gives power to the authority to institute disciplinary proceedings and impose penalty. Regulation 5(3) for facility is extracted here under-

"5(3) The disciplinary authority or any authority higher than it, may impose any of the penalties specified in regulation 4 on any officer employee."

9. A perusal of the aforesaid provision indicates that the disciplinary authority is required to impose any of the penalty specified in Regulation 4 on any officer employee. Regulation 4 of the Regulations of 1976 provides imposition of minor and major penalties. Therefore, the competent authority was empowered to initiate proceedings against an officer in relation to minor or major penalty. Once the disciplinary proceedings are initiated the proceedings would continue even after retirement of the officer upon reaching the age of superannuation as provided in Regulation 20 (3)(iii) of the Regulation of 1979. Upon completion of the inquiry proceedings the competent authority is required to pass a final order either exonerating the officer of the charges or imposing a penalty namely a minor or a major penalty depending upon the gravity of the charges so proved.

10. In the light of the aforesaid, we are of the opinion that the contention of the learned counsel for the petitioner that the disciplinary proceedings could continue after reaching the age of superannuation only with regard to major penalty is untenable and cannot be accepted.

11. Consequently, we do not find any merit in the writ petition. The writ petition fails and it is dismissed.

12. In the circumstances of the case there shall be no order as to costs.