(2003) 03 UK CK 0006

In the Uttarakhand High Court

Case No : Civil Writ Petition No. 360 (S/B) of 2002

Smt. Manjula Pujari APPELLANT

Vs

State Bank of India and Others RESPONDENT

Date of Decision : 05-03-2003

Acts Referred:

State Bank of India Employees Pension Fund Rules, 1955 — Rule 20

Citation : (2003) 2 UC 1068

Hon'ble Judges : M.M.Ghildiyal, J;Irshad Hussain, J

Bench : Division Bench

Advocate : Narain Datt, for the Appellant; Ashish Joshi, for the Respondent

Final Decision : Dismissed

Judgement

M. M. Ghildiyal, J.—This writ petition has been filed by the Petitioner who was an assistant in the State Bank of India challenging the order dated 30.5.2001 passed by the Chief Manager, State Bank of India, Respondent No. 2, annexure 5 to the writ petition whereby the Chief Manager informed the Petitioner that since she has not rendered 20 years of service, she was not entitled to leave encashment of Rs. 75953.00 which has already been paid to her by mistake and the Petitioner was advised not to withdraw the aforesaid amount from her account. The Petitioner further prayed for a writ of mandamus commanding the Respondents to restore pension of the Petitioner and further to direct the Respondents to refund the amount of leave encashment and pension.

2. The facts of the case are that the Petitioner was given a compassionate appointment as a clerk on 14.4.1979 in the main branch of State Bank of India, Dehradun. She was promoted to the post of Assistant. The Respondent-bank on the recommendations of Indian Bank Association introduced a specific scheme titled as SBI Voluntary Retirement Scheme (SBIVRS). The Petitioner opted for voluntary retirement under the aforesaid SBIVRS scheme and her option was accepted with effect from 31.3.2001. Initially, the Respondent bank sanctioned pension to the Petitioner and also sanctioned the amount of Rs. 75953.00 as

leave encashment to her credit. Later on it was found by the bank that since the Petitioner has not completed 20 years of service she was not entitled to pension as also leave encashment and consequently issued letter dated 31.5.2001 which is impugned in the present writ petition.

3. Heard Sri Narain Dutt learned Counsel for the Petitioner and Sri Ashish Joshi, learned Counsel for the Respondent-bank.

4. It is not disputed that the Petitioner was initially appointed in the Respondent-bank as clerk on 14.4.1979 and later on promoted to the post of assistant. It is also not disputed that the Petitioner had opted for voluntary retirement under SBIVRS scheme and the Petitioner was granted voluntary retirement under the aforesaid scheme on 31.3.2001. The submission of the Petitioner is that she was informed by the Manager (IOR section) vide his letter dated 21.3.2001 that her request for voluntary retirement under SBIVRS has been accepted and she would be relieved on 31.3.2001 and consequently she was relieved of her duties with effect from the close of business on 31.3.2001. The Petitioner has further submitted that on 4.7.2001 the Branch Manager, S.B.I. Rajpur Road, Dehradun informed the Petitioner that she has been sanctioned a monthly pension of Rs. 2265.00 with effect from 1.4.2001 being the commuted value of pension of Rs. 750.00, which has already been sanctioned with effect from 1.6.2001. The further contention of the Petitioner is that she was sanctioned pension and other retiral benefits only after the Respondents were satisfied that she has completed 20 years of qualifying service which is necessary requirement for entitlement of the aforesaid benefit and once the Respondents were satisfied the action of the Respondent- bank contrary to the aforesaid decision is highly arbitrary. The Respondent- bank has filed counter affidavit. In the counter affidavit the Respondents filed scheme. From the perusal of the scheme it appears that on 31.8.2000 the Indian Banks Association advised the Respondent bank to introduce voluntary retirement scheme. On 27.12.2000 the scheme was approved by the Central Board of Respondent bank. In SBIVRS scheme it was specifically provided that the pension shall be paid in terms of State Bank of India Employees Pension Fund Rules on the relevant date (including the commuted value of pension). According to the State Bank of India Employees Pension Fund Rules all such employees who had not completed 20 years of pensionable service as per SBI Employees Pension Fund Rules are not entitled for pension under the SBIVRS. The scheme provides the objective legibility, period, amount of ex-gratia and other benefits etc. Under the head ''other benefits''. The said scheme provides

(a) Gratuity as payable under the extent instructions on the relevant date.

(b) Provident Fund, contribution as per State Bank of India Employees Provident Fund Rules as on the relevant date.

(c) Pension in terms of State Bank of India Employees'' Pension Fund Rules on the relevant date (including commuted value of pension).

(d) Encashment of balance of privilege leave, as applicable, on the relevant date.

5. Thus, it is clear from the scheme itself that the pension shall be granted in terms of State Bank of India Employees Pension Fund Rules on the relevant date. Similar was the condition in respect of encashment of balance of privilege leave, which can be sanctioned under the scheme as applicable on the relevant date.

6. The Petitioner has submitted that she was appointed on 14.4.1979 and was relieved on 31.3.2001. As such she had completed more than 20 years of service and therefore, as per rules she was entitled for leave encashment as well as for pension. On the contrary, the Respondent- bank has argued that pension is payable only as per the Pension Fund Rules. Under the Rules 20 years of service is necessary for entitlement of pension. The Petitioner has not completed 20 years of service and is not entitled for pension. The Petitioner was confirmed and became member of the Pension Fund on 29.10.1979 and was relieved under the voluntary retirement scheme on 31.3.2001. During this period she was on leave on loss of pay not to be counted for 651 days and thus she had completed only 19 years 7 months 16 days as pensionable service. In support of this contention, the Respondent-bank filed documents showing the details of leave without pay sanctioned to the Petitioner, which are annexures 6, 7, 8 to the counter affidavit. From the perusal of the aforesaid documents, it is clear that since the Petitioner had no leave on her account she was sanctioned leave on loss of pay not to be counted in service and her increment was also shifted accordingly. The Respondent-bank by mistake did not deduct the aforesaid period of 651 days from the service of the Petitioner and wrongly counted her service more than 20 years and consequently granted her pension. The Petitioner had knowledge of the aforesaid fact and consequently when the Respondent-bank on 30.5.2001 informed the Petitioner that by mistake the sum of Rs. 75953.00 has been credited in her account as leave encashment and the pension sanctioned to her, the bank vide letter dated 4.6.2001 addressed to the Chief Manager, State Bank of India, Dehradun authorizing the Respondent-bank to recover the excess amount from her account. The aforesaid letter is filed annexure 9 to the counter affidavit.

7. Since the Petitioner was not entitled to get the leave encashment and the pension as per State Bank of India Pension Fund Rules the Respondent-bank has rightly asked the Petitioner to refund the aforesaid amount, which has been paid to her by mistake of the bank.

8. For the reasons mentioned above, the writ petition lacks merit and is dismissed accordingly. No order as to the costs.

