(2014) 03 UK CK 0065

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 247 of 2011

Suresh Chandra Bajpai APPELLANT

Vs

Allahabad Bank RESPONDENT

Date of Decision : 26-03-2014

Acts Referred:

Citation : (2014) 143 FLR 207

Hon'ble Judges : Barin Ghosh, C.J;V.K. Bist, J

Bench : Division Bench

Advocate : Sharad Sharma and Indu Sharma, Advocate for the Appellant; Vikas Pande and D.D. Patni, Advocate for the Respondent

Judgement

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Barin Ghosh, C.J.—A disciplinary proceeding initiated by the respondent Bank against the writ petitioner was concluded by an order dated 1st February, 1989 and, thereby, petitioner was dismissed from the services of the respondent Bank. The order of dismissal dated 1st February, 1989 was successfully challenged by the petitioner by filing a writ petition. The said writ petition was allowed on 15th July, 2006, whereby and under, the punishment order was interfered with on the ground that the same was excessive in the background of the charges as were levelled against the petitioner in the disciplinary proceeding and, accordingly, liberty was granted to the respondent Bank to re-conclude the disciplinary proceeding by passing a fresh order. On 1st October, 2008, upon reconsideration of the matter, Bank concluded the disciplinary proceeding and, thereby, compulsorily retired the petitioner but with effect from 1st February, 1989. This order dated 1st October, 2008 has been accepted by the petitioner. Having accepted the said order, petitioner asked the Bank to settle his terminal dues. The Bank, by the order dated 13th December, 2010, purported to settle the same. Petitioner has no grievance in relation to settlement of other retiral benefits by the said order dated 13th December, 2010, but is aggrieved by the decision conveyed as regards the claim of the petitioner for pension. In paragraph 2.5 of the said letter dated 13th December, 2010, while rejecting the claim of the petitioner for pension, it was held out as follows:--

"2.5 As regards pensionary benefits, having been compulsorily retired with effect from 1.2.1989, i.e. prior to 1.11.1993, Shri Bajpai was not eligible to receive pension under Allahabad Bank Employees'' Pension Regulations, 1995 in terms of section 33(1) of the said Regulations.

Again, having rendered less than 30 years of service in the Bank, Shri Bajpai was also not eligible to get pension under the then Bank''s Supplementary Pension Scheme (Old Pension Scheme in lieu of Gratuity)."

Regulation 33(1) of Allahabad Bank Employees'' Pension Regulations, 1995 mentioned in the said letter in the portion extracted above provides as follow, as translated by us:--

"On 1st November, 1993 or thereafter, if a person has been compulsorily retired by way of punishment either under disciplinary and appeal regulations, or by settlement, he shall be entitled to pension, but which shall not be less than two-third of the pension otherwise payable."

According to the petitioner, Regulation 33(1) of the said Regulations is applicable to compulsory retirement which has taken place on 1st November, 1993 and subsequent thereto. The learned Counsel for the Bank is not disputing the same. He has specifically submitted that Regulation 33(1) does not apply to the case of the petitioner since he was compulsorily retired on 1st February, 1989. He further submitted that Allahabad Bank Employees'' Pension Regulations, 1995 does not apply to the case of the petitioner, inasmuch as, the same came into force in 1995. The said submission is not acceptable, inasmuch as, Regulation 3(1)(ka) of the said Regulations makes it absolutely clear that the said Regulations are applicable to those employees who were in service of the Bank from 1st January, 1986 and left the services of the Bank before 1st November, 1993. The said Regulations further provide in Regulation 14 thereof that in order to be eligible for pension, a person is required to have ten years'' service. In the circumstances, the contention in the extract of the letter dated 13th December, 2010 to the effect that the old pension scheme was applicable to the petitioner and the 1995 Regulations were not applicable to him, is contrary to the provisions of the said Regulations and, accordingly, is rejected. In consequence thereof, the writ petition is allowed. Clause 2.5 of the letter dated 13th December, 2010, as extracted above, is set aside.

2. There being no dispute that the petitioner served the respondent Bank at least for ten years prior to 1st February, 1989, the Bank is directed to settle the pension payable to the petitioner in terms of the Allahabad Bank Employees'' Pension Regulations, 1995 as quickly as possible, but not later than three months from today and to reach the same to the petitioner within fifteen days from the date of settlement.

