(2009) 08 DEL CK 0441

In the Delhi High Court

Case No : Writ Petition (C) No. 3643 of 2002

Swaran Dutt Sharma — APPELLANT

Vs

Oriental Bank of Commerce and Others — RESPONDENT

Date of Decision : 13-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0441

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Non, for the Appellant; Jagat Arora and Rajat Arora, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jain, J.—The petitioner joined the service of respondent No. 1, Oriental Bank of Commerce on 13.10.1986 as a Clerk-cum-Cashier. On 10th November, 2000 the respondent No. 1 promulgated a scheme called O.B.C. Employees Voluntary Retirement Scheme 2000 (hereinafter referred to as ''Scheme''), which was to remain in force from 1st December 2000 to 31st December 2000 and was open to those permanent full time employees who had completed 15 years of service or 40 years of age, in addition to certain other eligible employees. The application of the petitioner dated 14.12.2000 seeking retirement from the service of the Bank was accepted by the bank with effect from 15.01.2001. Before retirement, the petitioner No. 1 had opted for the benefit of pension as per O.B.C. (Employees) Pension Regulations 1995. Vide circular dated 15.12.2000, the bank amended its (Employees) Pension Regulation so as to grant pension to those employees who had completed minimum prescribed period of employment and had opted for Voluntary Retirement Scheme after completing 15 years of employment. The grievance of the petitioner is that the pension has not been paid to him despite amendment made in the Pension Regulations. The petitioner has sought mandamus directing the respondent to fix and pay the pension to him along with interest @ 24% per annum.

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2. The respondents have contested the petition. It has been alleged in the reply that the petitioner was not entitled to pension in terms of Pension Regulations of the bank as he had not completed 15 years of service on the date of retirement. According to the respondents the petitioner had completed only 14 years, 3 months and 2 days of service on 15.1.2002, on the date when he retired from service.

3. A perusal of the Scheme would show that it was open to those permanent full time employees who had either completed 15 years of service or had reached 40 years of age. Therefore, a person who had completed 40 years, though had not completed 15 years of service, was eligible to apply for retirement under the Scheme. Similarly, a person who have completed 15 years of service, though had not reached 40 years of age, was also eligible to apply for voluntary retirement under the Scheme.

4. A further perusal of the Scheme shows that the following benefits were admissible to the employees taking voluntary retirement under the Scheme:

AMOUNT OF EX-GRATIA An employee seeking voluntary retirement under the scheme will be entitled to the ex-gratia amount mentioned hereunder:

(a) 60 days salary (pay plus stagnation increments plus special allowance plus dearness relief) for each completed year of service.

Or

Salary for the number of months service is left. Whichever is less.

OTHER BENEFITS:

An employee seeking voluntary retirement under the Scheme will be eligible for the following benefits in addition to the ex-gratia amount as above:

(i) Gratuity as per Gratuity Act, 1972 or Gratuity payable under the Service regulations as the case may be, as per existing rules.

(ii) Pension (including commuted value of pension) as per OBC (Employees) Pension Regulations 1995.

Or

Bank''s contribution towards PF, as per existing Rules.

(iii) Leave encashment as per existing rules

5. Thus, pension was payable to an employee seeking voluntary retirement under the Scheme only if he was eligible for it under O.B.C. (Employees) Pension Regulations, 1995. If an employee retiring under the Scheme was not eligible to pension under OBC (Employees) Pension Regulations, he was not to get pension under the Scheme. That the employee claiming pension had to be eligible for grant of pension under O.B.C. (Employees) Pension Regulations is more than

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evident from a bare perusal of the Scheme. It is not that the Scheme provided for payment of pension to every employee opting for retirement under the Scheme irrespective of whether they were eligible for pension under the Pension Regulations or not.

6. Vide Circular No. Per/57/83/2000 dated 15.12.2000, the respondent No. 1 notified its employees that Government of India had approved grant of pension to those employees who had retired after completing the minimum period of their retirement, under the Special Schemes created by the banks. The circular notified that till amendments were effected, in pension regulations, those employees who had opted for pension after completion of minimum period of 15 years of employment and had applied under the Special Scheme for voluntary retirement shall be eligible to get pension for the said period.

7. It is quite evident from a bare perusal of the above referred circular that a decision was taken by the Government as well as by the respondent bank to grant pension to those employees, who had taken voluntary retirement under the Special Scheme formulated by the bank for voluntary retirement of its employees, provided they had completed minimum 15 years of employment with the bank. The decision to grant pension was not applicable to those employees who had reached 40 years of age but had not completed 15 years of employment with the bank. This is petitioner''s own case that he joined the service of the bank of 13.10.1986 and retired from its service on 15.1.2001. Therefore, as per his own version, the petitioner had not completed 15 years of service when he retired from the service. This is not the case of the petitioner that under pension regulations applicable to him, he was entitled to pension even if he had not completed 15 years of service. Therefore, I find no merit in the contention that the petitioner was entitled to pension for the period he had rendered service with the bank.

For the reasons given in the preceding paragraphs, I find no merit in the writ petition. The same is hereby dismissed.

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