
(2010) 05 P&H CK 0017
In the Punjab And Haryana At Chandigarh

The Allahabad Bank and Others	Vs	APPELLANT
Resham Singh and Another		RESPONDENT

Date of Decision : 13-05-2010

Acts Referred:

Citation : (2010) 127 FLR 495 : (2010) 4 LLJ 812 : (2010) 159 PLR 553 :
(2010) 4 SLR 164

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—The appellant-Bank appears to be acting unreasonably towards its employee. An employee, who had served the Bank for a period of 25 years with honesty and sincerity is still fighting to grant his rightful dues of pension in terms of the scheme itself introduced by the Bank. Having failed before two layers of judicial hierarchy, the Bank has come up before this Court. A poor employee is no match before the financial might of the Bank and would have to stretch his resources to defend this onslaught,

2. The facts, noticed in brief, would reveal so. Respondent plaintiff, being an ex-serviceman, served with the Bank as an Armed Guard, from 30.6.1991 till he retired on 1.6.1991. He was paid gratuity and contributory provident fund as per the Rules.

3. Subsequently, the Bank introduced a pension scheme. The respondent-plaintiff had to file a suit to get his pension, which was denied to him, though he was entitled to the same as per the Scheme. The suit filed was decreed on 9.8.1988, against which the Bank filed an appeal and the suit was dismissed. Subsequently, the Bank again itself issued circular on 6.9.1994, regarding proposed pension regulations named Allahabad Bank Employees Regulation, 1993. All employees retired after 1.1.1986, were held eligible for pension subject to refund of share of contributory fund with the interest @ 6% from the date of receipt of intimation

from the Bank (emphasis mine). The respondent-plaintiff was given an option to avail this benefit if he was ready to deposit the contributory fund with interest. Still, further the Bank introduced the Regulations known as Allahabad Bank (Employees) Regulations, 1995 on 16.11.1995 and the employees who had retired after 1.1.1986 were offered the benefit of pension with certain terms and conditions and subject to filing option within 120 days i.e. till 22.1.1996. Respondent-plaintiff approached the Bank through various representations but the Bank failed to grant the pension. Thereafter, the respondent-plaintiff filed the present suit for mandatory injunction.

4. The appellant Bank appeared and filed a written statement raising an objection that the suit was not maintainable and that it was not properly valued for the purposes of Court fee and jurisdiction. The main plea raised was that the respondent-plaintiff failed to exercise his option and refund the entire amount and, thus, he was not entitled to pension. plea further was that the suit was not filed within limitation and was also bad for misjoinder and nonjoinder. On merits, the fact about the appointment of the respondent-plaintiff was admitted. It was also conceded that the Bank had issued circular which was made applicable to all employees, who were in the service of the Bank on or after 1.6.1986 but retired before 1.11.1993. Only those employees were eligible who exercised the option within 120 days and those who had refunded the contributory fund with interest at the rate of 6% per annum. It was then pointed out that the respondent-plaintiff could not submit his option to the prescribed authority and failed to deposit the provident fund with interest and, thus, he was not entitled to the relief prayed for.

5. The Trial Court had formulated the following issues:

1. Whether the plaintiff is entitled declaration as prayed for? OPP
2. Whether the plaintiff is entitled to mandatory injunction as prayed for? OPP
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction? OPD
5. Whether plaintiff has no locus standi to file the present suit? OPD
6. Whether the suit has not been filed within period of limitation? OPD:
7. Whether the suit is bad for non-joinder & mis-joinder of necessary parties? OPD
8. Relief.

6. The Trial Court partly decreed the suit, granting the declaration but declined the relief of mandatory injunction. Against this order, the Bank filed an appeal, which was dismissed. Hence, the present appeal. The only reason advanced to challenge the view expressed by the Courts is that there was no provision for

intimating the employee for submission of application form for refund of amount of the provident fund with interest. It was accordingly pleaded that since the respondent-plaintiff had not deposited the provident fund alongwith interest as per one of the conditions within sixty days, the Court had committed error in decreeing the suit. The submission is that the respondent-plaintiff has not used the option to become member of the Pension Scheme under the regulations of the Bank and also did not fulfill the criteria.

7. As it would emerge from the pleadings, there is no serious dispute about the right of the respondent-plaintiff to get pension. It is also not denied that in terms of the proposed pension regulations named Allahabad Bank (Employees) Pension Regulations, 1993, all employees who had retired after 1.1.1986 were made eligible for grant of pension. The respondent-plaintiff had filed an option in this regard on 21.7.1994. Thereafter, Regulations were framed in 1995 and the benefit of the same were conferred to the employees who retired after 1.1.1986 subject to deposit of their share of the provident fund enjoyed by the retiree alongwith interest @ 6% within seven days from the date of receipt of intimation from the Bank. The options were to be filed within 120 days from 27.9.1995 i.e. before 27.1.1996. The respondent-plaintiff is stated to have submitted option on 19.1.1996. He, however, could not deposit the provident fund with interest as he did not receive any intimation from the Bank in this regard.

8. Can the right to pension be defeated merely on such technical pleas which can be termed spacious in nature? It was found as a matter of fact that the Bank had not informed the respondent-plaintiff to deposit the contributory fund alongwith interest within seven days of the receipt of intimation. The plea is that he was so told orally. As per the regulation, option form was to be filled by the employees who retired on or after 1.1.1986 and are not members of the existing pension scheme of the Bank. It has been rightly observed by the Courts that if there was no need on the part of the Bank to inform the respondent-plaintiff to deposit the contributory fund with interest then why was he so informed orally as came out in evidence. The responsibility to inform respondent-plaintiff in this regard was rightly fastened on to the Bank. In any case, such technicalities to deny right to pension would amount to stretching the things too far. The right to pension can not be defeated on these technical pleas.

9. The purpose of the scheme ultimately is to ensure refund of the contributory fund with interest, which would then entitle the employee to earn pension. If a retired employee is not apprised about the requirement of the Scheme for him to opt and to fulfill the condition, how the employee would be expected to fulfill the conditions. The refund was to be done within seven days from the receipt of intimation from the Bank. The submission that the Bank was not to intimate the respondent was rightly found devoid of merits in view of the evidence on record. No substantial question of law from the facts as pleaded would emerge, which would call interference in the Regular Second Appeal. It appears that the Bank with its financial might has dragged the respondent-plaintiff, a poor pensioner

who has earned a right to pension on account of his 25 years of unblemished service. The submission that respondent-plaintiff has not refunded the contributory fund with interest so far would also not mean that his right to pension would get defeated.

10. The appellant Bank may now intimate the respondent plaintiff to deposit the amount of contributory fund with interest by giving him sufficient notice in this regard. This can not be a reason enough to interfere in the impugned orders.

11. The Regular Second Appeal deserves to be dismissed with costs. It is so ordered and the costs are assessed at Rs. 20,000/-.