
(2011) 01 AP CK 0024
In the Andhra Pradesh High Court
Case No : Writ Petition No. 3799 of 2001

Yousuf Khan

APPELLANT

Vs

State Bank of Hyderabad

RESPONDENT

Date of Decision : 21-01-2011

Acts Referred:

State Bank of Hyderabad (Employees) Pension Regulations, 1995 — Regulation 22

Citation : (2011) LLR 967

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : C. Raghu, for the Appellant; Venkataraghu Ramulu, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The Petitioner was working as Deftor in the State Bank of Hyderabad. He remained absent unauthorisedly with effect from 26-09-1997. He was issued a notice dated 22-04-1999, stating that his absence is unauthorized and he was required to report to duty within 30 days, failing which he will be deemed to have retired voluntarily from the service of the Bank, on expiry of the period of notice. The Petitioner did not join the duty within that period. In the circular, dated 19-02-2000, it was mentioned that the Petitioner voluntarily vacated the office, held by him, with effect from 26-09-1997.

2. Regulation 22 of the State Bank of Hyderabad (Employees") Pension Regulations, 1995 (for short the Pension Regulations") directs that, an employee, who is deemed to have voluntarily retired from the service, in terms of the provisions of voluntary cessation of employment, contained in the Bipartite Settlement, shall entail in forfeiture of his entire past service, and consequently shall not qualify for pensioner benefits. The Petitioner challenges the validity of Regulation 22 of the Pension Regulations. He contends that the proceedings issued against him on the one hand, stating that he has voluntarily retired from service, and such retirement should carry the benefit of the past service, in the

form of payment of pension. He contends that no disciplinary proceedings were initiated, and the right to receive pension cannot be taken away.

3. The Respondents filed a counter-affidavit, opposing the writ petition. According to them, the Petitioner incurred disqualification in terms of Regulation 22 of the Pension Regulations, and that except ventilating the grievances, he did not state any reasons, as to how Regulation 22 is contrary to law.

4. Heard Sri C. Raghu, learned Counsel for the Petitioner, and Sri Venkat Raghu Ramulu, learned Standing Counsel for the Respondents.

5. The Petitioner clearly admitted in his affidavit, that due to various circumstances beyond his control, he absented to the duties in the Bank, with effect from 26-09-1997. This continued, and about two years later, the Bank issued notice dated 22-04-1999, requiring him to report to duty within 30 days, failing which, he will be deemed to have retired voluntarily from the service of the Bank. This did not evoke any response from the Petitioner. The result is that the consequences provided for, in the notice followed, and he is deemed to have retired, voluntarily from service.

6. The retirement, whether voluntary, or of attaining the age of superannuation; would enable an employee to claim the benefit, if he has put in the prescribed minimum length of service. Regulation 22 of the Pension Regulations is to the effect that, in case the cessation of an employee is on account of deemed voluntary retirement, referable to unauthorized absence, he shall forfeit the benefit of past service. The Regulation reads as under:

Regulation 22: Event of disqualification:

(1) Resignation or dismissal or removal or termination of an employee from the service of the Bank including that of an employee who is deemed to have voluntarily retired from the Bank's service in terms of the provisions for voluntary cessation of employment contained in Bipartite Settlement shall entail forfeiture of his entire past service and consequently shall not qualify for pensioner benefits"

(2) An interruption in the service of a Bank employee entails forfeiture of his past service, except in the following cases namely;-

(a) authorized leave of absence:

(b) suspension where it is immediately followed by reinstatement whether in the same or a different post, or where the bank employee dies or is permitted to retire or is retired on attaining the age of compulsory retirement while under suspension;

(c) transfer to non-qualifying service in an establishment under the control of the Government or Bank if such transfer has been ordered by a competent authority in the public interest;

(d) joining time while on transfer from one post to another.

(3) Notwithstanding anything contained in Sub-regulation (2) the competent authority may, by order, commute retrospectively the periods of absence without leave as extraordinary leave.

(4) (a) In the absence of a specific indication to the contrary in the service record, an interruption between two spells of service rendered by an employee shall be treated as automatically condoned and the pre-interruption service treated as qualifying service;

(b) Nothing in Clause (a) shall apply to interruption caused by resignation, dismissal or removal from service or for participation in a strike:

7. Provided that before making an entry in the service record of the Bank employee regarding forfeiture of past service because of his participation in strike, an opportunity of representation may be given to such bank employees.

8. It is no doubt true that the Respondents did not initiate any disciplinary action against the Petitioner. In a way, the Petitioner himself obviated the necessity, by remaining absent for about two years, without leave, or any permission, and without responding to the offer made by the Respondents to join the service within 30 days. He made an attempt to report to duty only in April, 2000. By that time, the memo dated 19-02-2000 was issued, indicating that the Petitioner voluntarily vacated the office, with effect from 26-09-1997. The Petitioner is not able to point out any legal infirmity in Regulation 22 of the Pension Regulations. No part of this, can be said to be illegal or unreasonable.

9. Pension is a benefit, conferred upon an employee, who, either retired from service, on attaining the age of superannuation, or ceased to be in the employment, with the specific permission of the employer, that too, after he has put in the minimum qualifying service. Into this category fall, cases of resignation, or of voluntary retirement. An employee, who has remained absent unauthorisedly for years together, exposes himself to disciplinary action. If the relevant Service Rules provide for automatic cessation of service on account of absence, the necessity to initiate disciplinary proceedings would not exist.

10. It is not as if the Respondents have simply declared that the Petitioner ceased to be in service. They have given him an opportunity to join duty within 30 days. Had he availed it, he would have been in a position to wipe away the consequences of unauthorized absence, up to that date, in the context of payment of pension. Failure to avail that benefit has resulted in cessation of service. That, in turn, would lead to forfeiture of the past service. In *UCO Bank and Others Vs. Sanwar Mal*, the Hon"ble Supreme Court upheld the identical provision, contained in the Pension Regulations of UCO Bank (Employees") Pension Regulations, 1995.

11. Hence, the writ petition is dismissed. There shall be no order as to costs.