IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14389 of 2012

==

Ranjan Vedasen Son of Late Rajeshwar Prasad Sinha Resident of 106, Shankar Apartment, East Boring Canal Road, P.S Budha Colony, District- Patna.

.... Petitioner/s

Versus

1. The Union of India through Joint Secretary, Ministry of Finance, Banking Division, Parliament Street, New Delhi.
2. Canara Bank, Head Office, 112, J.C. Road, Bangalore through its Chairman and Managing Director.
3. Chairman and Managing Director, Canara Bank, Head Office, 112, J.C. Road, Bangalore.
4. The Assistant General Manager, Canara Bank, Employee's Pension Fund, Personnel Wing, Naveen Complex, 14, M.G. Road, Bangalore – 560001.
5. Manager, Canara Bank, Employee's Pension Fund, Personnel Wing, Naveen Complex, 14, M.G. Road, Bangalore – 560001.
6. Deputy General Manager, Canara Bank, Circle Office, 4/5 Luv Kush Tower, Exhibition Road, Patna – 800001.

.... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Manik Vedasan, Advocate.
		Mr. Subhash Chandra Bose, Advocate.
For the Respondent-Bank	:	Mrs. Sheela Sharma, Advocate.
		Mr. Shivendra Kumar Roy, Advocate.

==

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-12-2015

Heard learned counsel for the parties.

The point of contention in the present writ application is as to whether the petitioner having opted for voluntary retirement from Bank service would be granted the benefit of Regulation 29 (5) of the Canara Bank (Employees') Pension Regulations, 1995 (hereinafter referred to as the 'Regulations').

Learned counsel for the petitioner submits that after working for 19 years, 9 months and one day with the Bank he had opted for voluntary retirement under the Voluntary Retirement Scheme of the year 2000 which was accepted. Initially, he had opted for C.P.F. and not pension but lateron in view of the fresh option being asked for by the Bank in the year 2010, he applied for the same and was also granted the benefit of pension after having returned the amount taken by him under C.P.F., as per the demand raised by the Bank itself. It is submitted that once the petitioner was granted the benefit of pension under the Regulations, the respondent-Bank cannot create a sub-class by denying him the benefit of Regulation 29 (5). It is submitted that even otherwise, if the petitioner had sought voluntary retirement de-hors the VRS 2000 of the Bank, as per Regulation 29 (1) he would have been entitled to pension as the 'qualifying period of service' under the Bank had to be recognized as 20 years on a conjoint reading of Regulation 18 with Regulation 29(1). It is submitted that Regulation 18 has been found to be an independent provision unfettered by any restrictions for the sole purpose of reckoning the period which would be taken as qualifying service for the purposes of working out the pensionary benefit of the employee and stipulates that if the period of actual service rendered, beyond completed years, is more than six months, it would be treated as one complete year and if the same is less than six months it shall not be counted. Thus, on reading together of the said two provisions, the service of the petitioner qualifies as being pensionable as it comes to 20 years which was the minimum period required under Regulation 29 (1). Learned counsel submits that the Hon'ble Supreme Court in the case of **State Bank of Patiala v. Pritam Singh Bedi** reported in (**2014) 13 SCC 474**, of employees having put in more than 19 years and

6 months in service, on being denied pension after having taken voluntary retirement, has held that the period of 20 years in Regulation 29 (1) of the State Bank of Patiala (Employees) Pension Regulations, 1995, which is pari materia to the present Regulations, takes into account the qualifying service which has to be computed as per the relevant provisions, that is, Regulation 18 and has held that such employees were entitled to pension under Regulation 29. Learned counsel has drawn the attention of the Court to the fact that Regulation 29 of the State Bank of Patiala also provides for advantage of further period of 5 years in the qualifying service of an employee who retires voluntarily if he has completed more than 20 years of qualifying service. Learned counsel submits that the Hon'ble Supreme Court at paragraph no. 20 has quoted only Regulations 29 (1) and (5) and then has ultimately held that the writ petitioners having completed 20 years of service were entitled to the benefit of Regulation 29 and by implication, specifically Regulations 29 (1) and (5). He submits that the respondent-Bank, in the present case, making a fine distinction inasmuch as on the one hand admitting the entitlement of the petitioner to pension taking the period of his serive to be 20 years whereas on the other hand denying him the benefit of Regulation 29 (5), cannot be permitted to do so as such sub-classification is impermissible in view of the law laid down by the Hon'ble Supreme Court. Learned counsel has also relied upon a decision of the Hon'ble Supreme Court in the case of **Bank of India v. K. Mohandas** reported in **(2009) 5 SCC 313**, in which it

has been held that where the employees who had completed 20 years of service and offered voluntary retirement under VRS 2000 are entitled to addition of five years of notional service in calculating the length of service for the purposes of that Scheme as per Regulation 29(5) of the Pension Regulations, 1995.

It is submitted that in the present case also the option of getting pension under the VRS 2000 at the relevant time, to persons similarly situated to the petitioner, was under Regulation 29. Learned counsel has also relied on a decision of the Hon'ble Supreme Court in the case of **United Bank of India v. Pijush Kanti Nandy** reported in **(2009) 8 SCC 605** for the proposition that employees who had completed 20 years of service and were pension optees and offered voluntary retirement under VRS 2000 and whose offers were accepted by the Banks are entitled to addition of 5 years of notional service in calculating the length of service for the purposes of that Scheme as per Regulation 29(5) of the Pension Regulations, 1995.

Learned counsel for the Bank on the other hand submits that in the case of **State Bank of Patiala Vs. Pritam Singh Bedi** (supra), there is a distinguishable factor inasmuch as the proviso of Rule 28 of the present Regulation is not there in the State Bank of Patiala Regulations. He thus submits that the same would therefore not entitle the petitioner to take advantage of the said judgment of the Hon'ble Supreme Court. Learned counsel has further submitted that the words 'completed 20 years of qualifying service' in Regulation 29 (1) have to be given a meaning so that the word 'completed' does not become redundant and thus according to him 'completed' has to be read as 'actual service rendered' and not the 'notional service' which can be computed for the purposes of such grant of pensionary benefit. He further submits that Regulation 18 is only for the purposes of counting the broken period of service where the bank has to give notionally the benefit of service to make it pensionable which cannot be extended for grant of further benefit to a person who has not actually put in 20 years of service to be eligible to avail the benefit of Regulation 29 (5). It is thus submitted that under the VRS 2000 the petitioner was otherwise not entitled to pension as he had not completed 20 years and only because of subsequent proviso added to Regulation 28 where a service rendered for more than 15 years has also been made pensionable, the petitioner became eligible for consideration and grant of pension.

Learned counsel has also relied on the decisions of the Hon'ble Supreme Court in **Bank of India v. K. Mohandas** (supra), the relevant being at paragraphs 42 and 43 and **United Bank of India v. Pijush Kanti Nandy** (supra), the relevant being at paragraphs 16 and 22 to 26.

The Court has heard the parties at length. For the purposes of the present writ application, the following Regulations being relevant, for the sake of convenience, are reproduced hereinbelow.

> "**18. Broken period of service of less than one year:-**
>
> If the period of service of an employee includes broken period of service less than one year, then if such broken period is more than

six months, it shall be treated as one year and if such broken period is six months or less, it shall be ignored.

Provided that provisions of this regulation shall not apply for determining the minimum service required to make an employee eligible for pension.

28. Superannuation Pension:-

Superannuation Pension shall be grated to an employee who has retired on his attaining the age of superannuation specified in the Service Regulations or Settlements.

Provided that, with effect from 1st day of September, 2000 pension shall also be granted to an employee who opts to retire before attaining the age of superannuation, but after rendering service for a minimum period of 15 years in terms of any scheme that may be framed for such purpose by the Board with the approval of the Government.

29. Pension on Voluntary Reirement:-

(1) On or after the 1st day of November, 1993 at any time after an employee has completed twenty years of qualifying service he may, by giving notice of not less than three months in writing to the appointing authority retire from service.

Provided that this sub-regulation shall not apply to an employee who is on deputation or on study leave abroad unless after having been transferred or having returned to India he has resumed charge of the post in India and has served for a period of not less than one year.

Provided further that this sub-regulation shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking or company or institution or body, whether incorporated or not to which he is on deputation at the time of seeking voluntary retirement.

Provided that this sub-regulation shall not apply to an employee who is deemed to have retired in accordance with clause (1) of regulation 2.

> (2) XXXXX
>
> (3) XXXXX
>
> (4) XXXXX
>
> (5) The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty three years and it does not take him beyond the date of superannuation.
> (6) XXXXX"

Once the VRS 2000 itself envisaged payment of pension in terms of the Regulations, though the petitioner at the relevant time had opted for CPF but subsequently in the year 2010 the Bank gave second option to such employees who had already applied under the VRS 2000 to change their option, the petitioner also changed his option and upon return of whatever amount was required and asked for by the respondent-Bank, was allowed the benefit of pension under the Regulations, it is apparent that the petitioner was given the benefit, though in the year 2010, in terms of VRS 2000 and undoubtedly at the relevant time in the year 2000 pension could be granted only to a person who had completed 20 years of 'qualifying service' as per Regulation 29 (1). Even though by an amendment in the Regulation in the year 2002 by which the proviso was added to Regulation 28 granting the benefit of pension to employees who has completed 15 years in Bank service which was also made effective retrospectively from 01st September, 2000, the entitlement of petitioner cannot be said to be under the said proviso of Regulation 28 on the ground that he had completed only 19 years, 9 months and one day in service but rather the same was under Regulation 29 (1) itself for the reason that when computation of 'qualifying service' is to be made, it is required to be so done after taking into account the broken period of service of less than a year in accordance with Regulation 18, which admittedly in the case of the petitioner would come to 20 years. The view of the Court is in tune with the decision of the Hon'ble Supreme Court in the case of **State Bank of Patiala v. Pritam Singh Bedi** (Supra) where persons who had completed more than 19 years and 6 months of service were held to be qualified and entitled to pension under Regulation 29 itself. Once having held that the petitioner's retirement option was allowed under Regulation 29, the only consequential and obvious corollary would be that Regulation 29 as a whole shall be applicable in the case of the petitioner also. Moreover, as Regulation 29(1) starts with the presumption that the employee has completed 20 years of qualifying service, in that background Regulation 29 (5) stipulates that the qualifying service of the employee retiring voluntarily under this Regulation shall be enhanced by a period not exceeding 5 years subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed 33 years and it does not take him beyond the date of superannuation. Thus, employees covered and entitled to pension under Regulation 29 are so because they have completed 20 years of 'qualifying service'. Once that is the case, admittedly Regulation 29 (5) will give them the benefit of notional advantage of further period of 5 years subject to a ceiling to total 33 years. The Hon'ble Supreme Court in the case of **State Bank of Patiala v. Pritam Sing Bedi** (Supra) has clarified such position and has specifically held that persons seeking voluntary retirement having completed more than 19 years and 6 months of service are entitled to pension under Regulation 29 and the relevant being Regulations 29 (1) and (5), and it thus follows that all those who are covered under Regulation 29 shall get the benefit of Regulation 29 (5) as well and there cannot be two classes of such employees who though are entitled to pension under Regulation 29 (1) but denied the benefit of Regulation 29 (5). The contention of learned counsel for the Bank that the Hon'ble Supreme Court has decided the matter much after the pension to the petitioner was granted is not fit to be accepted for the simple reason that the Hon'ble Supreme Court has only clarified the position and had not read down the Regulation or interpreted it in a manner to include persons who were otherwise not entitled to such benefit. Thus, the legal position has only been explained and clarified. The further contention of learned counsel for the Bank that the word 'completed' has to be given its literal meaning also cannot be accepted in view of the fact that this being a beneficial provision has to be interpreted liberally and if the words 'completed 20 years of qualifying service' is given the interpretation so as to mean 20 years of 'actually' having worked, then the word 'qualifying service' would become redundant, which is against the standard rule of reading or interpreting of a statute where the plain and general meaning of every word has to be considered in harmony with the rest of the words in the sentence. It is also a well recognized principle of construction of a contract that it must be read as a whole in order to ascertain the true meaning of the several clauses and the words of each clause should be interpreted so as to bring them into harmony with the other provisions if that interpretation does no violence to the meaning of which they are naturally susceptible, as has been held in the case of **The North Eastern Railway Company vs. Lord Hastings** reported in **[1900] A.C. 260**.

The Court would also like to refer to paragraph 66 of the decision of the Hon'ble Supreme Court in the case of **Bank of India v. K. Mohandas** (supra) where it has been held:

> "*66.* We hold, as it must be, that the employees who had completed 20 years of service and were pension optees and offered voluntary retirement under VRS 2000 and whose offers were accepted by the banks are entitled to addition of five years of notional service in calculating the length of service for the purposes of that Scheme as per Regulation 29(5) of the Pension Regulations, 1995. The contrary views expressed by some of the High Courts do not lay down the correct legal position."

The Hon'ble Supreme Court subsequently in the case of **United Bank of India v. Pijush Kanti Nandy** (supra) has agreed with the aforesaid view at paragraph 21. Further, with regard to computation of 'qualifying service' for the purposes of Regulation 29 (1) would include taking into account the provision of Regulation 18 and thus from that point of view also, once the petitioner has been found entitled to pension under Regulation 29 (1), he shall but necessarily be also entitled to the benefit of Regulation 29 (5). The Court is fortified in its view by a decision of the Hon'ble Supreme Court in the case of **Indian Bank v. N. Venkatramani** reported in **(2007) 10 SCC 609** where at paragraph 13 it has been held:

> "*13.* It may be true that various provisions of the Regulations as for example Regulations 16, 17, 19, 23, etc. provided for qualifying service. Regulation 18 is not controlled by any of the said provisions. It does not brook any restrictive interpretation. It only provides for a rule of measurement. An employee, as noticed hereinbefore, was entitled to pension provided he has completed the specified period of service. How such a period of service would be computed is a matter which is governed by the statute. It is one thing to say that a statute provides for completion of fifteen years of minimum service, but if a provision provides for measurement of the period, the same cannot be lost sight of. Provision of the Regulations which are beneficial in nature, in our opinion, should be construed liberally."

In the result, the writ petition succeeds. The petitioner is held entitled to benefit of pension in terms of Regulation 29(5) of the Regulations and the decision as communicated under letter dated 29th July, 2011 denying weightage of additional five years of service for the purpose of pension to the petitioner, is quashed. The consequential benefits flowing from the order shall be granted to the petitioner forthwith.

(Ahsanuddin Amanullah, J.)

Anand Kr.

U		T	