

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8535 of 1999

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Smt.Sanjiwani Devi wife of late Raghubhar Dayal Sharma, resident of village Raria, P.S. Bikramganj, District Rohtas at Present resident of Mohalla Nawada, P. S. Nawada, District Bhojpur (Ara)

.... Petitioner/s

Versus

1. Punjab National Bank through its Chairman cum Managing Director, 7 Bhikjajee Kama Place, Africa Avenue, New Delhi-110066.
2. Zonal Manager, Punjab National Bank, Chanakya Place R. Block, Birchand Pate Path, Patna
3. Regional Manager, Punjab National Bank, Maharaja Hatta, Ara
4. Senior Branch Manager, Punjab National Bank, Chowk Ara, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Tripathy
With Satya Vrat, Advocates

For the Respondent/s : Mr. Prashant Vedasan

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 19-05-2015

1. This writ application has been filed seeking quashing of of the letter dated 31.01.1998, whereby, the petitioner's husband late Raghubhar Dayal Sharma, an Assistant Manager, Punjab National Bank, Nawada, Ara was made to retire with effect from 31.01.1998.

2. Learned counsel for the petitioner has referred to a comparative chart in respect of the salaries of the employees, which has been brought on record by way of Annexure-4 to the



writ application and the seniority list of Officers in Middle Management in Grade Scale-I as on 01.01.1996 indicate that the date of birth of the petitioner's husband was treated to be 31.3.1942 and has accordingly contended that the petitioner's husband should have been allowed to continue in the Bank till he attained the age of superannuation on that basis in the year 2004. According to him, the Bank erroneously treated his date of birth to be 01.01.1938 and on that basis, by the impugned letter the petitioner's husband was made to retire with effect from 31.01.1998. It is also the case of the petitioner that as even as per the Matriculation certificate, her husband's date of birth was 31.3.1942.

3. There are certain facts which are not in dispute. The petitioner was appointed as Clerk in the erstwhile Universal Bank of India on 03.07.1960. The Universal Bank came to be amalgamated with Punjab National Bank in the year 1967. Annexure-4, which has been referred to above contains a comparative chart of the salary of the employees of the Universal Bank taken over by the Punjab National Bank. In the said, chart date of birth of the petitioner has been mentioned as 31.03.1942. Annexure-5 is the seniority list of the Officers in Junior Management Grade Scale-I as on 01.01.1996. In the

said list also the date of birth of the petitioner's husband has been mentioned as 31.03.1942. These two documents are official documents and there is no denial of existence of such documents, by the Respondents Bank in their counter affidavit.

4. This is also not in dispute that after the petitioner's husband was issued the impugned order dated 31.01.1998, he applied for pensionary benefits and he received pensionary benefits accordingly. Unfortunately, the petitioner's husband died on 01.06.1998 because of certain ailment.

5. It is the case of the petitioner that impugned order as contained in Annexure-1 is illegal in view of the admitted documents. In course of argument, it has been submitted that the petitioner's husband as a matter of fact, died on 01.06.1998 because of the shock which he received because of an illegal notice served upon requiring him to retire before the actual date of his superannuation.

6. A counter affidavit has been filed on behalf of the Respondent Bank, bringing on record by way of Annexure-A, history-sheet of the petitioner's husband, wherein, his date of birth has been as 05.01.1938. It is the case of the Bank that the petitioner's husband after receiving the impugned notice accepted his retirement without any objection and the present



belated claim made by his wife should not be entertained. Referring to the Matriculation certificate, learned counsel for the Bank has submitted that there is difference between the name mentioned in the Matriculation certificate and the name of the petitioner's husband inasmuch as, in the Matriculation certificate, name has been mentioned as "Raghbhar Dayal" whereas the name of petitioner's husband in other documents has been mentioned as "Raghbhur Dayal Sharma". I do not find much substance in the submission made on behalf of the Bank in this regard as I find that in the matriculation certificate father's name has been mentioned as "Shivnandan" whereas in other document, father's of the petitioner's husband name has been mentioned as "Sheonandan Sharma". Further I do not find any specific averment in the counter affidavit questioning the correctness of the said matriculation certificate. There is vague assertions in the counter affidavit to the effect that entries made in Annexure-5 and Annexure-6 cannot be treated to be sacrosanct and such entries might have been made mistakenly.

7. Learned counsel for the Bank has also submitted that the petitioner's husband, at no point of time raised any question over the date of birth as recorded in the history-sheet



and therefore, the claim raised by the petitioner in the present writ application deserves to be dismissed. He has relied upon a Supreme Court judgment in case of State of Orissa & ors. vs. Ramanath Pathak (AIR 1997 SC 2452) with special reference to paragraph 4 to contend that the date of birth recorded in the service book cannot be altered at the belated stage on the basis of any material.

8. Learned counsel for the petitioner in reply has submitted that the petitioner's husband had no occasion to make any representation or raise any plea against wrong entries in the date of birth and his date of birth was treated to be 31.3.1942 in the Comparative Chart (Annexure-4) as well as in the seniority of the Officers (Annexure-5). He has also submitted that the history-sheet, which has been brought on record by way of Annexures to the counter affidavit does not bear the signature of any authority not that of the petitioner and on the basis of said Annexures, it cannot be said that 05.01.1938 was the date of birth recorded in the service book of the petitioner's husband which was made known to him.

9. From the pleadings of the parties and submissions made on their behalf, I am of the opinion that there are sufficient material to show that petitioner's date of birth was



31.03.1942 which was treated to be his date of birth in the comparative chart in respect of salaries of the employees taken over by the Punjab National Bank and seniority list of the officers in Junior Management Grade Scale-I as on 01.01.1996. The date of birth so recorded in these two documents matches with the date of birth as mentioned in matriculation certificate brought on record by way of Annexure-2 to this writ application.

10. Learned counsel for the petitioner has submitted that she would be entitled for salary right from 01.02.1998 up to the date when her husband would have attained the age of superannuation in the year 2002. As has been noted above, the petitioner's husband died on 1.6.1998. The plea, therefore, on behalf of the petitioner that even for the period after the petitioner's husband died, she would be entitled for salary is not acceptable at all. On the basis of the documents and submissions, I am satisfied that the petitioner's husband was wrongly made to retire with effect from 31.01.1998. I am not able to accept the submission that since the petitioner's husband could not raise any plea before he died, his wife, the present petitioner cannot raise such plea against the decision of the Bank to retire her husband taking 05.01.1938 to be his date of birth in the peculiar facts and

circumstances of the case, as the petitioner's husband died within four months of the date with effect from which he was made to retire. He might not have had the time to represent before the authorities against his retirement with effect from 31.01.1998.

11. The impugned letter dated 31.01.1998 (Annexure-1) is accordingly, quashed. The Respondent Bank is directed to pay to the petitioner the salary which her husband would have been entitled to receive, had he been in service up to the date of his death, after adjusting the amount of pension, if any, which her husband or she might have received for the said period.

12. The writ application is accordingly, allowed.

13. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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