

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 24623 of 2012(O&M)

Date of Decision: December 1 , 2015.

Surinder Kumar Sharma

..... PETITIONER (s)

Versus

Canara Bank and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anil Chawla, Advocate
for the petitioner.

Mr. Arvind Rajotia, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 25.07.2011, Annexure P1 whereby respondent-Bank has declined to permit the petitioner to exercise option of pension scheme beyond the prescribed cut-off date.

Petitioner joined as a Clerk with the respondent-Bank at Gopal Nagar Branch, Amritsar on 08.01.1986. He sought voluntary retirement w.e.f. 31.03.2001. Respondent-Bank in the year 2010 invited options from the retirees for Family Pension Scheme. Employees had to submit their options from

21.08.2010 till 19.10.2010. Admittedly, petitioner did not submit his option as required. Case of the petitioner is that though circular No. 297/10 dated 21.08.2010, Annexure P2 was required to be circulated amongst all the employees of the Bank, no such circulation was effected and petitioner never came to know about the said Scheme. He submitted his representation opting for the pension scheme on 28.06.2011, Annexure P3 after he came to know of the scheme. Petitioner's request was rejected by the Bank on 25.07.2011, Annexure P1 on the ground that he had not submitted his option by 19.10.2010. Hence aggrieved, present writ petition has been preferred.

Learned counsel for the petitioner vehemently argues that circular dated 21.08.2010 was not properly circulated amongst the employees as is specifically mentioned in the Scheme itself, which provides that “circular should be circulated amongst all the employees of the Bank”. It is averred that copy of the circular was never sent individually to the petitioner and other employees. Furthermore, publication on 01.09.2010 and 02.09.2010, Annexure R1 (Collectively) in the newspapers is not sufficient and there is no clarity in this publication. There is no detail as to whom or to which category of employees this option is available. Availability of the information on the website of the Bank is of no benefit to the persons who are not internet savvy. In view of the above, it is prayed that petitioner should have been permitted to submit his option after the cut-off date and due benefit of family pension scheme be afforded to him.

Per contra, learned counsel for respondents submits that once petitioner has chosen not to exercise his option within the stipulated time-frame,

no indulgence should be granted to him and this writ petition should be dismissed.

Both the learned counsel rely on the judgment of Hon'ble Supreme Court in **Calcutta Port Trust v. Anadi Kumar Das (Capt.) and others, 2014 (2) SCT 646.**

Having heard learned counsel for the parties and going through the file, it is apparent that petitioner served the respondent-Bank at Amritsar and retired from the D.S. Market Branch, Canara Bank, Amritsar itself having sought voluntary retirement in March 2001. He is still a resident of Amritsar. On issuance of circular dated 21.08.2010 due publication was made by the Bank. Notices were published in Dainik Jagran newspaper in Amritsar edition as well as Patiala edition. It was specifically mentioned that the circular was available on the Bank's website as well as on the Branch's notice board. There is no replication to counter or deny the said facts mentioned in the reply filed on behalf of the respondent-Bank.

Hon'ble Supreme Court in **Calcutta Port Trust and others v. Anadi Kumar Das (Capt.) and others, 2014(2) SCT 646** has clearly held as under:-

“20. We would like to observe that whenever an employer introduces the Pension Scheme or makes the same applicable to retired employees and give them opportunity to exercise option, the circulars/instructions issued for that purpose should either be communicated to the retirees or made known to them by some reasonable mode. Mere display of such notice/instructions on the notice board of the Head Office cannot be treated as an intimation thereof to the retired employees/officers. The employer

cannot presume that all the retirees have settled in the city where the Head Office is located. If the employees belong to the services of the Central Government or its agencies/instrumentalities, they are likely to settle in their native places which may be far away from the seat of the Government or Head Office of the establishment or organisation. The retirees are not expected to frequently travel from their native places to the seat of the Government or Head Office to know about additional benefits, if any, extended by the Government or their establishment/organization and it is the duty of the employer to adopt a suitable mechanism for communicating the decision to the retired employees so as to enable them to exercise option. This could be done either by publishing a notice in the newspaper about which the retirees are told at the time of their retirement or by sending copies of the circulars/instructions to the retirees or by sending a copy thereof to the association of the employees and/or officers with a direction to them to circulate the same among the concerned retirees. By taking advantage of the modern technology, the employer can also display the circulars/instructions on a designated website about which prior information is made available to the employees at the time of their retirement. If one of these modes is not adopted, the retired employees can legitimately complain that they have been denied right to exercise the option and can seek intervention of the Court.”

It is apparent that petitioner is a resident of Amritsar. Due publication of the circular is apparent from the record. Perusal of writ petition reveals that there is no indication as to how the petitioner even came to know about the said circular. On a pointed query, learned counsel for the petitioner is

unable to give a satisfactory reply. Petitioner's representation dated 28.06.2011, Annexure P3 also does not reveal source of his information. It is not reasonable to presume that a person of ordinary prudence would not be aware of such a pension scheme in the given circumstances. It has been specifically held in Calcutta Port Trust's case (supra) that each case has to be decided in the backdrop of its own facts. In the present case, petitioner admittedly did not submit his option within the stipulated time. Proper circulation of the scheme by the respondent-Bank is duly proved. Contention of learned counsel for the petitioner that the Hon'ble Supreme Court nevertheless permitted the appellant therein to exercise his option, thus present petitioner be also permitted to do so is unacceptable inasmuch as it is specifically observed by the Hon'ble Supreme Court that said decision would not be treated as a precedent for other cases. It is observed that each case be decided in the backdrop of its own facts. Peculiar facts of the present case as discussed above do not call for any interference by this Court.

In view of the facts and circumstances as above, this writ petition is dismissed.

December 1, 2015.
'om'

(**LISA GILL**)
JUDGE