

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 2553 of 2012 (O&M)

Date of decision : December 22, 2015

V.K. Vohra

.....Petitioner

Versus

Central Bank of India and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Praveen Gupta, Advocate
for the petitioner.

Mr. Aalok Jagga, Advocate
for the respondents.

LISA GILL, J.

Petitioner, who was compulsorily retired, is aggrieved by the action of the respondent-Bank in denying him pensionary benefits vide communication dated 25.10.2011 (Annexure P-8 and P-9).

It is submitted that petitioner while working as Regional Manager with respondent-Bank at Regional Office, Ambala was served with a charge-sheet dated 29.12.2008. Pursuant to disciplinary proceedings, punishment of compulsory retirement under Regulation 4 (h) of Central Bank of India Officers Employees

(Discipline and Appeal) Regulations, 1976 was imposed vide order dated 26.12.2009. Administrative order dated 04.01.2010 (Annexure P-1) was passed in this respect. Petitioner's appeal was declined vide order dated 14.08.2010 but it was specifically observed that punishment imposed upon the petitioner would not deprive him of pensionary benefits.

In terms of Central Bank of India (Employees) Pensionary Regulation, 1995 as well as order dated 14.08.2010 by the Appellate Authority, petitioner was issued letter dated 10.09.2010 by the office of Assistant General Manager, Regional Office, Ambala granting the petitioner an opportunity of exercising an option for pension.

Petitioner vide communication dated 18.10.2010 (Annexure P-3) submitted his option for the pension scheme. He also submitted representations of even date for payment of his contribution towards Provident Fund, Gratuity, Leave Encashment etc. Petitioner was informed vide communication dated 06.12.2010 (Annexure P-4) that he was not eligible for exercising another option for pension because the said respondent petitioner had been advised that those employees discharged, dismissed or terminated cannot submit such an option. This communication was sent by Sh. P.K. Kaushal, Assistant Regional Manager. Petitioner thereafter explained the entire position vide his representation dated 21.12.2010 and 05.01.2011, Annexure P-5 and P-6, respectively. Pursuant thereto, the petitioner received an E-mail on 01.03.2011 (Annexure P-7) from Sh. P.K. Kaushal, Assistant Regional Manager i.e. same officer who had addressed Annexure P-4 informing him that pension acceptance

letter has been received from the Central Office and in terms of the guidelines all the officers are to submit pension applications through proper channel only after receipt of confirmation letter in respect of acceptance of pension. In order to enable the bank to send the acceptance letter as well as pension formats, petitioner was asked to convey his present mailing address immediately. Despite taking necessary action on his part, the petitioner did not receive any communication nor was pension and retiral benefits released. He was, however, paid a sum of ₹7,09,800/- on 20.04.2011 in respect of self-contribution to the provident fund. Sum of ₹8,13,613/- was released alongwith leave encashment of ₹3,70,783/-. Petitioner sought information under the Right to Information Act, 2005 and he was informed vide communication dated 25.10.2011 (Annexure P-8) that pension was not released to him as he is not eligible for exercising another option for pension since he was compulsorily retired by way of punishment. He was also informed vide communication dated 25.10.2011 (Annexure P-9) that as per provisions of Regulation 46(1) of the Officers Service Regulation he is not entitled to any gratuity.

It is vehemently argued that once appellate authority has clearly held that punishment imposed upon him is not a bar to any of the pensionary benefits due to the petitioner, same are being denied illegally by the respondents.

Reference is also made to decision dated 22.03.2012 by the High Court of Andhra Pradesh in Writ Petition no. 9069 of 2011 (Sreeram Ramamurthy Vs. Andhra Bank and others) Annexure P-12.

The very same regulations were subject matter of the said writ petition and the question involved was whether an employee who is compulsorily retired from the service of the respondent-Bank is entitled to opt for pension scheme in terms of the circular dated 01.09.2010. It has been categorically held that said circular is applicable to employees compulsorily retired as well, because otherwise it would amount to creating a class within a class itself. The retirees would stand bifurcated into two categories i.e. those who retired on superannuation/voluntarily and those who were retired compulsorily which is impermissible. Respondent-Bank was directed to reconsider the option exercised by the petitioner therein under circular dated 01.09.2010 read with joint note dated 27.04.2010. Said judgment of the Single Judge was upheld by a Division Bench of the High Court of Andhra Pradesh on 08.08.2013 (Annexure P-13). Special Leave Petition filed by the Andhra Bank was dismissed by the Hon'ble Supreme Court on 05.09.2014 (Annexure P-15). Review Petition filed by the Bank was also dismissed on 21.01.2015 (Annexure P-16).

Learned counsel for the respondents is unable to deny that the option given by the petitioner is under the very same circular, which was the subject matter of challenge in the abovesaid decisions. While not denying the fact that petitioner is similarly situated, learned counsel for the respondents submits that necessary relief should not be granted to the petitioner on the ground that he has not challenged rejection of his second option for pension vide dated 06.12.2010 (Annexure P-4). In the peculiar facts and

circumstances of the case, said contention is misplaced and unacceptable for the reason that it is undisputed that petitioner pursuant to his representations made subsequent to said rejection dated 06.12.2010 (Annexure P-4), received an e-mail dated 01.03.2011 (Annexure P-7) by the very same officer, who had authored Annexure P-4.

Relevant portion of the said e-mail reads as under:-

“In terms of co-guidelines officers are to submit the pension applications through proper channel only after receipt of confirmation letter in respect of accepting the option for pension.

In order to enable us to sent you the acceptance letter as well as pension formats please arrange to convey us your present mailing address immediately.

*With regards
P.K. Kaushal”*

Therefore, the abovesaid hyper technical objection being raised by the learned counsel for the respondents is rejected. Petitioner is doubtlessly entitled to the same relief in terms of the decisions, Annexure P-12 and P-16.

This writ petition is allowed with a direction to the respondents to re-consider the option exercised by the petitioner in accordance with the circular dated 01.09.2010 read with joint note dated 27.04.2010 within a period of two months from date of receipt of certified copy of this order. It is, however, clarified that the

respondents are at liberty to consider the eligibility of the petitioner to pension in terms of the other provisions of the abovesaid circular/applicable provisions.

December 22, 2015
rts

(Lisa Gill)
Judge