

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15093 of 2014

Date of Decision:- 2.6.2016.

Basant Kumar

.....Petitioner

Versus

Punjab National Bank and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

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?

Present: Mr. Dharminder Singh Rawat, Advocate for
the petitioner.

Mr. Manish Dadwal, Advocate for the respondent.

P.B. BAJANTHRI, J.

1.) The petitioner has questioned the order communication dated 14.3.2011 (Annexure P-6) and letter dated 16.3.2012 (Annexure P-8) by which the petitioner's claim for grant of pension has been rejected.

2.) The petitioner joined service on 9.1.1984. On 23.5.2008 he has resigned the post and his resignation was accepted on 13.6.2008.

3.) The respondents introduced Pension Scheme on 16.8.2010 (Annexure P-5). The petitioner submitted

application/representation to consider his name for granting pension under the aforesaid Scheme. The same has been rejected by the respondents contending that he has taken voluntary retirement from Bank service on 23.6.2008 other VRS-2000, therefore, he is not eligible for any pension option in terms of the department circular dated 16.8.2010. Thereafter he had issued a legal notice. The respondents have rejected the legal notice on 16.3.2012. Hence, this petition.

4.) Learned counsel for the petitioner submitted that the petitioner had submitted his resignation on 23.5.2008. However, while accepting the same, respondents have ordered that petitioner is retired from Bank service on 23.6.2008. Petitioner was also wished by the respondents *"We wish you a very happy retired life"*. In view of these words while accepting the resignation of the petitioner, the petitioner is of the view that he has been permitted to take voluntary retirement as he had completed 20 years of service and not resignation. Therefore, petitioner contended that he is entitled for all consequential benefits as if he has been permitted to take voluntary retirement and not resignation. Therefore, rejection of the petitioner's claim vide Annexure P-8 is contrary to the facts. It was further contended by the petitioner counsel that the petitioner had completed 20 years of service on 9.1.2004 before the date of resignation dated 23.5.2008. Therefore, the respondents have not considered that petitioner has been retired voluntarily instead of

resignation. In view of the facts and circumstances, petitioner counsel submitted that petitioner be treated as an employee who has taken voluntary retirement and consequential benefits should be extended.

5.) On the other hand, learned counsel for the respondents submitted that for the purpose of voluntary retirement, three months' notice is required under Regulation 29 whereas the petitioner has furnished his application for resignation by issuing one month's notice in view of the guidelines governing the resignation provision. Therefore, merely using the word "acceptance of retirement" and wishing the petitioner does not change the character of request for resignation and acceptance of resignation. Since from the date of acceptance of resignation, the petitioner has not approached the respondents seeking any benefit under Pension Scheme for the reasons that he had opted for Provident Fund Scheme. PF and Gratuity and other benefits have been extended to him as if he has resigned the post. Therefore, the petitioner be treated as resigned employee. He is not entitled for any benefits under Pension provision. Regulation 22 of the Punjab National Bank (Employees) Pension, Regulations, 1995 provides for forfeiture of service. Sub-clause (i) provides that resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and such employee shall not qualify for pensionary benefits. In view of the above provisions, the

petitioner is not entitled for pension under Annexure P-5 dated 16.8.2010 *“ANOTHER PENSION OPTION IN TERMS OF 9th BI-PARTITE SETTLEMENT (WORKMEN EMPLOYEES)/JOINT NOTE DATED 27.4.2010 (OFFICERS)”*.

6.) Learned counsel for the petitioner vehemently contended that the petitioner is to be declared that he has taken voluntarily retirement with reference to the fact that he has completed 20 years of service on 9.1.2004. In this regard, he has cited number of decisions of the Supreme Court wherein it has been held that instead of resignation it is to be converted as voluntary retirement.

7.) Heard learned counsel for the parties.

8.) The crux of the matter in the present case is whether the petitioner has resigned or he has been permitted to take voluntary retirement from 23.6.2008. Perusal of the Regulation governing resignation and voluntary retirement, it is evident that for the purpose of resignation, three months mandatory notice is required. Insofar as resignation is concerned, one month notice is sufficient. The petitioner's application for resignation contains one month notice. Therefore, it is deemed that he has resigned the post held by him. No doubt it is true that the respondents while accepting resignation they have used the words *“he is permitted to retire”*. However, the petitioner cannot take shelter under the decision that the petitioner is permitted to retire. Ultimately contents of the resignation letter and notice of one month is taken into consideration, it is for resignation

only. Therefore, it is to be held that petitioner has resigned the post.

9.) The petitioner submitted application/representation for extending the benefit of Pension Scheme dated 16.8.2010. The respondents have rejected his grievance of extending another pension on the wrong facts contending that the petitioner has taken voluntary retirement on 23.6.2008 other than the VRS-2000. The same was repeated while rejecting the legal notice. The respondents have throughout misled the petitioner stating that he was permitted to retire from service. Even in the year 2011-12, they have contended that the petitioner has taken voluntary retirement and he is not entitled for pension as he is not pension optee. Had the respondents informed the petitioner that he has resigned the post, he would not have pursued the matter for extending the benefit of another pension option. There is a serious lapses on the respondents while considering the grievance of the petitioner both for resignation and for rejection of his claim for another pension scheme.

10.) Having regard to the facts and circumstances, the grievance of the petitioner in the present petition is only for extension of another pension scheme vide Annexure P-5. Nowhere he has stated that his acceptance of resignation be converted into voluntary retirement. Unless and until a decision is taken by the respondents that petitioner's resignation has been converted into voluntary retirement, the petitioner is not entitled for any benefit under another pension scheme vide Anneuxre P-5 dated 16.8.2010. Thus, the

petitioner is not entitled for the relief sought. Annexure P-6 dated 4.3.2011 and Annexure P-8 dated 16.3.2012 are set aside for the reasons that respondents have misled the petitioner stating that petitioner has taken voluntary retirement. The respondents are liable to pay cost of ₹ 10,000/- to the petitioner for unnecessarily allowing the petitioner to approach this Court by assigning wrong facts that he has taken voluntary retirement. This order will not come in the way of petitioner to approach the respondents to convert the resignation into voluntary retirement having regard to the fact that petitioner has completed 20 years of service on 9.1.2004. The respondents are directed to consider his representation/application for conversion of resignation to that of voluntary retirement at the earliest, consider the following decisions of the Supreme Court and this Court:-

(i) **2015 (1) SCT 636 (Sashikala Devi Vs. Central Bank of India and others)** decided on 17.12.2014.

(ii) **2015 (6) SLR 731 (Asger Ibrahim Amin Vs. Life Insurance Corporation of India)** decided on 12.10.2015.

(iii) **2014 (4) SCT 496 (Punjabi University, Patiala and another Vs. Dr. Bhim Singh)** decided on 25.7.2014.

11.) Petitioner stands disposed of.

**(P.B. BAJANTHRI)
JUDGE**

June 2, 2016.

sandeep sethi