

Parmanand Petitioner (s)

Syndicate Bank and another Respondent (s)

Present:- Mr. H.C. Arora, Advocate, for the petitioner.

Mr. Vipin Mahajan, Advocate, for respondents.

- KULDIP SINGH J. (ORAL)

The petitioner was working as an Assistant Manager in the Syndicate Bank and was posted at Amritsar Branch. These were the days of terrorism the State of Punjab and that area was most affected area. He requested the Zonal Manager, New Delhi, about apprehension to his life and sought transfer to some safer places like Jalandhar, Ludhiana or Adampur Branches of the bank. Since his request was not accepted, therefore, he had to hide himself and thereby became absent from duty from 19.3.1990 till 26.7.1991. He was removed from service on 25.2.1995 on account of unauthorized absence. The petitioner claims that the Syndicate Bank (Employees') Pension Regulations 1995 came into effect with effect from 29.9.1995 and same was circulated to various branches of bank, vide letter dated 4.11.1995. These were applicable to the employees, who were in service of the Bank on or after 1.1.1986, but had retired before 1.11.1993. Such employees were eligible for pension. However, no option was given to

CWP No. 15586 of 2014 (O/M)

the employees to be covered by the Pension Regulations, who had already retired, resigned, dismissed or removed from service. However, vide circular dated 16.9.2010 (Annexure-P-2), fresh option was sought from the employees. In the present petition, the petitioner claims compassionate allowance under Regulation 31 of the Syndicate Bank (Employees') Pension Regulations 1995. It is stated that the respondents, vide impugned letter dated 4.2.2013 (Annexure-P-6), declined the request of the petitioner on the ground that he was removed from service on the effective date and not eligible for pension. Therefore, he is not eligible for compassionate allowance in lieu of pension.

In the written statement, the respondents have taken the stand that the services of the petitioner were terminated. Therefore, he is not entitled to compassionate allowance or pension. It is further stated that the petitioner had absented himself from duty during the days of terrorism and, therefore, his services were rightly terminated.

I have heard the learned counsel for the petitioner, the learned counsel for the respondents and have also carefully gone through the file.

The Regulation 31 of the Syndicate Bank (Employees') Pension Regulations 1995 :-

“31. Compassionate Allowance

(1) An employee, who is dismissed or removed or terminated from service, shall forfeit his pension ;

Provided that the authority higher than the authority competent to dismiss or remove or terminate him from service may, if-

- (i) such dismissal, removal, or termination, is on or after the 1st day of November, 1993; and
- (ii) the case is 'deserving of special consideration', sanction a compassionate allowance not exceeding two-thirds of the pension which would have been admissible to him on the basis of the qualifying service rendered

CWP No. 15586 of 2014 (O/M)

-3-

upto the date of his dismissal, removal or termination.

(2) The Compassionate Allowance sanctioned under the proviso to sub-regulation (i) shall not be less than the amount of minimum pension payable under Regulation 36 of these regulations.”

It indicates that in case, an employee is dismissed from service, he shall forfeit his pension. Then, an exception has been made that if the higher authority than the competent authority to dismiss or remove or terminate an employee from service feels that if such dismissal, removal, or termination is on or after 1.11.1993, which is there in the present case, and the case is 'deserving of special consideration', can sanction a compassionate allowance, not exceeding two-thirds of the pension, which would have been admissible to him on the basis of the qualifying service rendered upto the date of dismissal, removal or termination. The Regulations itself show that it is not required that the petitioner must be eligible for pension. Normally, an employee, who is dismissed, removed or terminated from service, is not entitled to pensionary benefits. However, this is an exception, which could be made by the higher authority. Therefore, the fact whether the employee is entitled to pension, is not to be considered while allowing compassionate allowance. Only for considering the claim of compassionate allowance, the pension, which would have been admissible, is to be considered. The extract from the impugned order dated 4.2.2013 (Annexure-P-6) is reproduced as under :-

“We acknowledge receipt of your letter dated 27.12.2012 requesting for sanctioning compassionate allowance in lieu of pension.

Pensionary benefits are sanctioned to the ex-employees only if they had opted for pension while in service. On the date of your removal from service, i.e. on 25.02.1995, you were not a

CWP No. 15586 of 2014 (O/M)

~~4~~

pension optee. Pension Regulations came into effect on 29.9.1995 as per which employees retired on or after 1.1.1986 till the above effective date were eligible to opt for pension. As you were removed from service prior to the effective date, you were not eligible to opt for pension.

As you were not a pension optee, you are not covered by Syndicate Bank Employees' Pension Regulations 1995 and hence you are not eligible for pensionary benefits including compassionate allowance as per Regulation 31 of SBEPR 1995.”

It shows that the order was passed assuming that the petitioner is removed. The petitioner did not opt for pension and since he did not opt for pension and he was removed from service, he is not eligible for compassionate allowance also. As such, the impugned order dated 4.2.2013 (Annexure-P-6) is illegal and is hereby set aside. The respondents are directed to pass a speaking order as to whether the case of the petitioner is 'deserving of special consideration' and if it is so, pass the consequential order also in terms of Regulation 31 of the Syndicate Bank (Employees') Pension Regulations 1995, reproduced above. Needless to say that before passing such an order, the petitioner shall be heard and submit proof that his case is 'deserving of special consideration'. The banker shall also take into consideration any other evidence available with them in deciding such matter. The matter is ordered to be decided expeditiously, preferably within six months from the date of receipt of copy of this order.

The petition is disposed of.

(KULDIP SINGH)
JUDGE

15.7.2016
sjks