

CWP No.15689 of 2016

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.15689 of 2016
Date of decision:29.08.2016**

Jagjit Singh Shekhon

...Petitioner

Versus

Canara Bank and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajesh Arora, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

This petition is directed against the order dated 04.05.2016 by which request of the petitioner for joining the pension scheme of the Canara Bank (hereinafter referred to as the “bank”) at the belated stage has been rejected.

In short, the petitioner joined the services of the bank on 18.08.1973 as Clerk, took voluntary retirement and was relieved from the bank on 31.03.2001. The pension scheme was introduced in the banking industry in lieu of the Contributory Provident Fund (CPF). The Canara Bank Employees' Pension Regulations, 1995 (hereinafter referred to as the “Regulations”) came into being on 29.09.1995 and at that time, the petitioner was in service of the bank. After formulating the pension scheme, the option was circulated to the employees of the bank but the petitioner opted for the CPF and did not joint the pension scheme on his own volition.

CWP No.15689 of 2016

[2]

A Joint Note/Memorandum of Settlement was entered between the Indian Banks' Association and the Workmen Unions & Officers' Association respectively on 27.04.2010 to extend another option to join the pension scheme within the stipulated time. After signing the settlement, the Indian Banks' Association made publication in various newspapers on 17th/18th August, 2010, bringing to the notice of the all retired employees regarding extension of another option to join the pension scheme. Not only that, the bank issued Circular No.297/2010 dated 21.08.2010 and necessary information was displayed on the notice board of all its branches/offices for information of all the retired employees of the bank. The bank also issued separate publication to all concerned regarding the factum of extension of another option to join the pension scheme and also displayed the relevant information on its website, mentioning that the last date for submitting the option was 19.10.2010. Thus, in terms of the Industry Level Settlement dated 27.04.2010, the bank had given 60 days time to submit option to all those eligible to join the pension scheme and, thereafter, the scheme was closed.

Admittedly, the petitioner neither exercised his option either in 1995 or in 2010 and has rather made the application on 06.02.2015, almost after 5 years of the closure of the scheme in the year 2010, for the purpose of joining the pension scheme. It was alleged in the application that the petitioner was hospitalized in the year 2009-2010 due to severe Hepatitis-C and it was incumbent upon the bank to inform the petitioner, who had retired in the year 2001, much prior to 27.04.2010, and has no

CWP No.15689 of 2016

[3]

communication with the bank after having retired and his application has been erroneously and illegally rejected on the ground that it is highly belated.

At the time of preliminary hearing, the following order was passed by this Court on 05.08.2016:-

“Learned counsel for the petitioner contends that the option for shifting to the pension scheme, though published in two newspapers but it was not got acknowledged from the petitioner personally. Therefore, despite the claim of the respondents in the impugned order that it was got published in two newspapers, it never came to the notice of the petitioner. Thus, the petitioner seeks extension of time to submit the option to join the existing pension scheme.

The petitioner is directed to satisfy this Court as to whether, the individual intimation is required and information through publication in the newspapers is not sufficient for the extension of option and whether in such cases, the Court has the power to extend the time to submit such option?

Adjourned to 29.08.2016.”

Counsel for the petitioner has fairly conceded that there is no provision which requires individual intimation for joining the pension scheme. He has rather relied upon a decision of this Court in the case of **Janak Raj Sharma vs. Oriental Bank of Commerce and Ors.**, 2016(1) CLR 730.

There is no dispute that the petitioner had two opportunities to join the pension scheme, one in the year 1995 when he was in service and another in the year 2010 after his retirement but he did not join the pension scheme on both the occasions. After 5 years of the closure of the pension scheme, the application has been filed by the petitioner with an excuse that

CWP No.15689 of 2016

[4]

he could not apply earlier because he was unwell due to severe Hepatitis-C with which he was afflicted in the year 2009-10 and, thus, he could not get the intimation about the extension of another option for joining the pension scheme in the year 2010. The petitioner has not given any reason as to why he did not join the pension scheme when he was very much in service and opted for voluntary retirement in the year 2001. The bank has alleged that the factum of extension of pension scheme in the year 2010 was published and was also uploaded on the website of the bank besides having been displayed on the notice board of the bank.

Thus, the petitioner is to blame himself in this regard for being lethargic and not responding to the opportunity at the relevant time and cannot be allowed to take shelter of the decision rendered by this Court in **Janak Raj Sharma's case (supra)**, of which the facts are altogether different because in that case the petitioner was working as a Senior Manager and retired on 15.01.2001. The circulation dated 23.08.2010 was issued giving opportunity to all its employees, who were in service prior to 29.09.1995 and had retired after that date but prior to 27.04.2010, to opt for the pension scheme but the petitioner in that case could not apply because it is alleged that he was away to the United States of America and Canada from 24.11.2009 to 18.11.2010 at the time when the said circular was issued and came back to India on 18.11.2010, whereas the application could have been filed only till 25.10.2010. In such facts and circumstances, he was allowed to make the application.

The facts of the present case are altogether different because

CWP No.15689 of 2016

[5]

the petitioner herein firstly had an option to apply for the pension scheme in the year 1995 when he was in service, which he did not avail, and secondly in the year 2010 which was also not availed and applied after expiry of 5 years on the lame excuse of his illness.

Thus, as a result of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed.

August 29, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No