

LPA No. 1297 of 2015 (O&M)

Date of decision : 28.04.2016

State Bank of India and others

.....Appellants

Versus

Aruna Garg and another

....Respondents

**CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. R.K. Chopra, Senior Advocate with
Mr. Vikas Chatrath, Advocate
for the appellants.

Mr. R.K. Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate
for the respondents.

Mahesh Grover, J.

Respondent No. 1, who was an employee of the appellant-Bank, made a prayer for voluntary retirement on 21.01.2014. This prayer was declined by the Bank on 16.04.2014 on account of a fact that there was some disciplinary proceeding pending against the employee. This order was challenged by respondent No. 1 in CWP No. 20219 of 2014, which was accepted on 16.07.2015 with the following observation as a conclusion:-

“ In view of the above, I have no hesitation to hold that the petitioner would be deemed to have retired from service w.e.f 12.01.2014. Her retiral dues be released to her within a period of three months from the date of receipt of a certified copy of this order.”

An application was moved before the writ Court, which was also accepted and the date of retirement was altered from 12.01.2014 to 20.01.2014 vide order dated 14.08.2015 passed by the writ Court. The Bank then preferred the present appeal where interim orders were granted keeping the directions issued by the writ Court in abeyance.

During the pendency of the present appeal, disciplinary proceedings against the employee stand concluded with a simple warning issued to respondent No. 1. On 19.01.2016, after noticing the aforesaid fact, this Court observed that the Bank may reconsider the matter before the next date of hearing.

Said reconsideration has now been granted to retire the respondent-employee w.e.f. 20.01.2014.

Upon consideration, we find that the order passed by the appellant to retire respondent No. 1 from service w.e.f. 04.02.2016 is rather contrary to the orders passed by the writ Court. The entire controversy has its genesis in the prayer of the respondent employee seeking voluntary retirement w.e.f. 20.01.2014. Having succeeded in the writ petition with the date of retirement granted as 20.01.2014 as a measure of acceptance of her prayer, the appellant-Bank cannot be permitted to alter such a date merely because the disciplinary proceedings have culminated now. Particularly, when this aspect was considered by the writ Court and the pendency of such proceedings was not considered to be an impediment in the consideration of the request of the employee for voluntary retirement.

There would be, thus, no occasion with the Bank to insist that the date of retirement would be the date prescribed by them in order dated 03.02.2016.

The appeal has largely been rendered infructuous and is disposed of with the aforesaid observation that the employee would stand retired in terms of his prayer w.e.f. 20.01.2014 as per the mandate of the writ Court.

(Mahesh Grover)
Judge

(Lisa Gill)
Judge

April 28, 2016
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