

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

LPA No.1869 of 2014 (O&M)
Date of decision: May 03 , 2016

State Bank of Patiala and another -----Appellants

Versus

Smt.Krishna Aneja -----Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr.H.N.Mehtani, Advocate for the appellants.

Mr.Ram Kumar Malik, Senior Advocate with
Mr.Kuldeep Sheoran, Advocate for the respondent.

HARINDER SINGH SIDHU, J.

This case has been remitted to this Court for fresh adjudication on the issues as indicated in the order dated 9.7.2015 of Hon'ble the Supreme Court.

2. The respondent joined the appellant Bank on 15.10.1986. On 20.1.2001, the appellant Bank circulated a scheme termed 'The State Bank of Patiala Voluntary Retirement Scheme (SBPVRS)', (hereinafter referred to as "the scheme"), which was to remain in force from 15.2.2001 to 1.3.2001. As per this Scheme, the permanent employees of the Bank, who had put in 15 years of service or had completed 40 years of age, as on 31.12.2000 were entitled to opt for voluntary retirement thereunder. The respondent, who had rendered more than 14 years one month and 29 days service as on that date and had completed 40 years of age applied for retirement under the Scheme.

Her request having been accepted, she was relieved on 31.3.2001.

3. Though other benefits as per the Scheme were given, her request for grant of pension was declined vide order dated 12.3.2008 (Annexure P-3) on the ground that she had not completed 20 years of service. She filed CWP No.21280 of 2008 impugning that action. In support of her claim for pension reliance was placed on a decision of this Court in CWP No.16527 of 2001 titled 'Prem Singh Hooda vs. State Bank of Patiala and ors.' decided on 22.10.2008 wherein, it was held that as per Clause 3.5 of the Scheme read with Regulation 14 of the State Bank of Patiala (Employees) Pension Regulations, 1995 (hereinafter referred to as the "Pension Regulations 1995") an employee was entitled to pension after putting in 10 years of qualifying service. LPA No.312 of 2008 titled 'State Bank of Patiala vs. Pritam Singh Bedi and others' against the said decision had been dismissed on 9.1.2009. Against the dismissal of the LPA the Bank had filed SLP.

4. The writ petition was initially adjourned to await the decision in the SLP. The appeal of the Bank bearing Civil Appeal No.172 of 2010 was dismissed on 7.7.2014 (*State Bank of Patiala v. Pritam Singh Bedi (2014) 13 SCC 474*).

5. The writ petition filed by the respondent was allowed on 29.8.2014 relying on the decision in Prem Singh Hooda's case (supra) which had been affirmed by Hon'ble the Supreme Court in Pritam Singh Bedi's case (supra). The appellant filed LPA No.1869 of 2014 which was dismissed vide order dated 13.11.2014 holding that the case was squarely covered by the decision of the Supreme Court in *Pritam Singh Bedi 's case (supra)* Against the aforesaid order, the appellant bank preferred SLP (Civil) No.5152 of 2015 titled 'State Bank of Patiala & another vs. Smt.

Anand Versha Tandon & another'. Hon'ble the Supreme Court noted that the facts on which the decision in Civil Appeal No.172 of 2010 (***Pritam Singh Bedi's*** case) was rendered were totally different from the facts of the present case, inasmuch as the employees therein had completed more than 19 years and 6 months of service, which by virtue of Regulation 18 of the State Bank of Patiala (Employees) Pension Regulations, 1995 amounted to 20 years of service. As this aspect had not been taken note of, the Hon'ble Supreme Court held that High Court ought to have considered the eligibility of the employees to pension in the light of the specific provisions of Voluntary Retirement Scheme read with the provisions of Pension Regulations. Accordingly, the matter has been remitted back for fresh adjudication.

6. We have heard Ld. Counsel for the parties and perused the record.

7. At the outset, it would be necessary to refer to the relevant provisions of the Voluntary Retirement Scheme and the Pension Regulations 1995.

8. Different Banks including the State Bank of Patiala had introduced the Voluntary Retirement Scheme pursuant to advice of the Indian Banks Association. The State Bank of Patiala introduced the Voluntary Retirement Scheme, 2000 vide Circular No. Per/VRS/48 dated 20-1-2001.

9. Clause 3 of the Scheme prescribed eligibility of voluntary retirement as follows:

“3. Eligibility.—The Scheme will be open to all permanent employees of the Bank, except those specifically mentioned as ‘ineligible’, who have put in 15 years of service or have

completed 40 years of age as on 31-12-2000. Age will be reckoned on the basis of the date of birth as entered in service record.

While calculating the period of service, absence, which is reckoned as service, will be excluded.

If an officer, who has not completed mandatory rural or semi-urban assignment (either wholly or partly) submits an application for retirement under SBP VRS before approving his case, his promotions would stand withdrawn if confirmation subsequent to promotion is subject to completing such mandatory service.”

10. As per Clause 6, the employee whose request for voluntary retirement was accepted by the Bank would be paid an ex-gratia amount of 60 days' salary (pay + Stagnation increments + Special Pay) for each completed year of service.

11. Clause 7 lists the other benefits which are offered under the Scheme :

*“7. **Other benefits.**—(i) Gratuity as payable under the extant instructions on the relevant date.*

(ii) Provident Fund contribution as per the SBP Employees' Provident Rules as on relevant date.

(iii) Pension or Bank's contribution to Provident Fund as the case may be as per rules applicable on the relevant date on the basis of actual years of service rendered.”

12. The State Bank of Patiala (Employees) Pension Regulations, 1995 are applicable to full-time employees of the Bank.

Regulation 2(w) defines qualifying service and Regulation 2(y) defines retirement :

*“2. (w) ‘**qualifying service**’ means the service rendered while on duty or otherwise which shall be taken into account for the purpose of pension under these Regulations;*

** * **

*(y) ‘**retirement**’ means cessation from Bank's service—*

(a) on attaining the age of superannuation specified in the Service Regulations or Settlements;

(b) on voluntary retirement in accordance with provisions contained in Regulation 29 of these Regulations;

(c) on premature retirement by the Bank before attaining the

age of superannuation specified in the Service Regulations or Settlements;”

Chapter IV relates to qualifying service. Regulation 14 defines qualifying service as under:

“14. Qualifying service.—*Subject to the other conditions contained in these Regulations, an employee who has rendered a minimum of ten years of service in the Bank on the date of his retirement or the date on which he is deemed to have retired shall qualify for pension.”*

Regulation 18 prescribes the manner of reckoning broken period of service of less than one year as under:

“18. Broken period of service of less than one year.—*If the period of service of an employee includes broken period of service is less than one year, then if such broken period is more than six months, it shall be treated as one year and if such broken period is six months or less it shall be ignored.”*

Chapter V comprising Regulations 28 to 34 details the classes of pension.

Regulation 28 deals with superannuation pension as under:

“28. Superannuation pension.—*Superannuation pension shall be granted to an employee who has retired on his attaining the age of superannuation specified in the Service Regulations or settlements.”*

Regulation 29 relates to pension on voluntary retirement, relevant portion of which reads as under:

“29. Pension on voluntary retirement.—*(1) On or after the 1st day of November, 1993 at any time after an employee has completed twenty years of qualifying service he may, by giving notice of not less than three months in writing to the competent authority retire from service:*

Provided that this sub-regulation shall not apply to an employee who is on deputation or on study leave abroad unless after having been transferred or having returned to India he has resumed charge of the post in India and has served for a period of not less than one year:

Provided further that this sub-regulation shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking or company or institution or body, whether incorporated or not to which he is on deputation at the time of seeking voluntary retirement:

Provided that this sub-regulation shall not apply to an

employee who is deemed to have retired in accordance with clause (1) of Regulation 2.

** * **

(5) The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty-three years and it does not take him beyond the date of superannuation.”

Regulation 32 deals with premature pension and reads as under:

*“32. **Premature retirement pension.**—Premature retirement pension may be granted to an employee who-*

(a) has rendered minimum ten years of service; and

(b) retires from service on account of orders of the Bank to retire prematurely in the public interest or for any other reason specified in service regulations or settlement, if otherwise he was entitled to such pension on superannuation on that date.”

Regulation 33 deals with an employee compulsorily retired from service.

13. A Division Bench of this Court in **Dharam Pal Singh Vs Punjab National Bank 2008(1) SCT 739** construing the Punjab National Bank (Employees) Pension Regulations, 1995 which are similar to the Pension Regulations 1995 of the State Bank of Patiala (the appellant Bank) and the Voluntary Retirement Scheme of that Bank which also is similar to the Voluntarily retirement Scheme of the appellant Bank, rejected the argument of the Bank that the claim for pension of employees seeking voluntary retirement in terms of the Voluntary Retirement Scheme would be governed by Regulation 29 which requires an employee to complete 20 years of service for seeking voluntary retirement. It was held that on a conjoint reading of the eligibility conditions for seeking voluntary retirement under the Scheme read with Regulation 14, an employee seeking voluntary retirement under the Scheme who has completed ten years of service would be entitled to pension.

It was observed as under:

“13. Regulation 29 is a general Regulation which is applicable to all the employees of the Bank independent of the Scheme. If an employee of the Bank completes 20 years of qualifying service, he is entitled to voluntary retirement. Such is the retirement falling within the meaning of section 2(y)(b) of the Regulations. The Scheme under which the petitioner has opted for retirement is not part of the Regulations. Pension Regulations became applicable to the petitioner in terms of clause 3.5 of the Scheme. Therefore, Regulation 29 cannot be extended to in respect of the claim of the petitioner for pension.

14. As per Scheme, the eligibility to seek retirement is after 15 years of qualifying service or 40 years of age. The petitioner is over 40 years of age and has 10 years of qualifying service. Such service under Regulation 14 is the qualifying service for payment of dues on retirement. The petitioner fulfils the said condition. Clause 3.5 of the Scheme extends benefit of pension under Pension Regulations. As per Regulation 14, 10 years is the period of qualifying service. Therefore, a co-joint reading of the eligibility condition and the benefits payable under the Scheme read with Regulation 14, the petitioner is entitled to pension.”

14. In CWP No.16527 of 2001 titled '**Prem Singh Hooda vs. State Bank of Patiala and ors.**', the Division Bench decision in **Dharam Pal Singh (supra)** was relied upon and followed. The decision in Prem Singh Hooda's case (supra) was affirmed in LPA No.312 of 2008 titled 'State Bank of Patiala vs. Pritam Singh Bedi and others' vide judgment dated 9-1-2009. The SLP filed by the appellant Bank also came to be dismissed vide judgment of Hon'ble the Supreme Court reported as **State Bank of Patiala v. Pritam Singh Bedi, (2014) 13 SCC 474.**

15. In this decision, the Hon'ble Supreme Court noticed that all the respondents in the appeals had completed more than 19 years and six months of service. As per Regulation 18 of the Pension Regulations, 1995, if broken period is more than six months, it shall be treated as one year. The Supreme Court held that as all the respondents had completed more than 19

years and 6 months of service in the Bank, as per Regulation 18 they were to be treated to have completed 20 years of service. Accordingly they were held to be entitled to pension in terms of Regulation 29 as per which voluntary retirement can be sought after 20 years of qualifying service and such an employee would be entitled to pension.

It was observed as under:

“23. It has not been disputed by the appellant Bank that the respondents in all the appeals have completed much more than 19 years 6 months of service in the Bank. For example, Respondent 1, Prakash Chand in CA No. 173 of 2010 had joined the Bank on 4-5-1981 and was relieved on 31-3-2001. Thus, he had completed 19 years, 10 months and 28 days of qualifying service on the date of relieving from service.

24. Regulation 18 of the Pension Regulations, 1995 provides that if broken period is more than six months, it shall be treated as one year. Therefore, all the respondent-writ petitioners having completed more than 19 years and 6 months of service in the Bank, they are to be treated to have completed 20 years of service. The aforesaid question was neither raised nor decided in Bank of Baroda or Bank of India.

25. In view of the aforesaid fact, the appellant Bank cannot derive the benefit of the decision of this Court in Bank of Baroda as the employees who were parties before the Court in the said case had not completed 20 years of service. As per the decision of this Court in Bank of India, the respondent-writ petitioners having completed 20 years of service are entitled to the benefit of Regulation 29.”

16. The writ petition and the LPA in the present case was disposed of in terms of this decision of the Hon'ble Supreme Court in Pritam Singh Bedi's case (supra).

17. In its order dated 9th July, 2015 while disposing of the appeal filed by the appellant against these orders, Hon'ble the Supreme Court noticed the fact that the employees in ***Pritam Singh Bedi's*** case (supra) had completed 20 years of service because of which they became entitled to the benefit of Pension in terms of Regulation 29, which however was not the position in the present case where the respondent had completed only 14

years and 2 months of service. Accordingly, the matter was remitted for decision afresh in the light of the Voluntary Retirement Scheme and the Pension Regulations, 1995.

18. The issue that arises in the present case is whether employees who have completed less than 15 years at the time of seeking Voluntary Retirement under the Voluntary Retirement Scheme can be held entitled to pension in terms of any provision of the Pension Regulations, 1995.

19. In **Bank of Baroda v. Ganpat Singh Deora, (2009) 3 SCC 217**, the employee of the Bank of Baroda had completed 40 years of age and rendered 13 years of service. He sought and was granted Voluntary Retirement in terms of identical Voluntary Retirement Scheme. His claim for pension was denied by the Bank on the ground that as per Regulation 14, 28 and 29 he was not entitled to pension. He succeeded before the Industrial Tribunal and before the Division Bench of the Rajasthan High Court which held him to be entitled to pension in terms of Regulation 14, which contemplates 10 years service as qualifying for pension. In the appeal filed by the Bank of Baroda, the issue before Hon'ble the Supreme Court was whether Regulation 29 of the Pension Regulations, 1995, could have been applied in the case of Voluntary Retirement under the Scheme or whether Regulation 14 had been rightly applied both by the Tribunal and the High Court. Hon'ble the Supreme Court held that employees who opted for the Voluntary Retirement under the Scheme, have to be treated differently from premature retirement where the minimum period of qualifying service has been fixed at 10 years in terms of Regulation 14 of the Pension Regulations, 1995. However, the period of qualifying service for grant of pension had been retained as 15 years in the amended Regulation 28 for those opting for

Voluntary Retirement. It was held that as the respondents had not completed the required length of qualifying service of 15 years as provided under Regulation 28 of the 1995 Regulations, the respondent was not eligible for pension under the Pension Regulations, 1995 of the appellant Bank.

The Court observed as under:

“25. The only question which is required to be determined in the instant case is whether Regulation 29 of the Pension Regulations, 1995, could have been applied in the case of the respondent or whether Regulation 14 has been rightly applied both by the Tribunal and the High Court.

26. BOBEVRS, 2001 itself does not give any indication, other than what has been stated in para 3, as to which of the employees of the appellant Bank would be entitled to opt for voluntary retirement. It only mentions that all permanent employees of the Bank, who as on 31-3-2001, would have completed/would be completing minimum 15 years of service or those who have completed/would be completing 40 years of age, would be eligible to apply for voluntary retirement under BOBEVRS, 2001.

27. The conditions relating to completing 15 years of service for being eligible to apply for BOBEVRS, 2001 are special to the Scheme as also to the case of those employees who wished to apply for voluntary retirement under the aforesaid Scheme, if they had completed or would be completing 40 years of age. The latter condition appears to have been incorporated in view of the provisions of Regulations 14 and 32 of the Pension Regulations, 1995, to enable employees who had completed 10 years of service to also become eligible to apply for premature retirement under the Pension Regulations, 1995.

28. However, we are inclined to agree with Ms Bhati that Regulation 29 does not contemplate voluntary retirement under the Voluntary Retirement Scheme and applies only to such employees who themselves wish to retire dehors any scheme of voluntary retirement, after having completed 15 years of qualifying service for the said purpose. There is a distinct difference between the two situations and Regulation 29 would not cover the case of an employee opting to retire on the basis of a voluntary retirement scheme.

29. Furthermore, Regulation 2 of the Voluntary Retirement Scheme, 2001 of the appellant Bank merely prescribes a period of qualifying service for an employee to be eligible to apply for voluntary retirement.

30. On the other hand, Regulations 14 and 29 of the Pension Regulations, 1995, relate to the period of qualifying

service for pension under the said Regulations, in two different situations. While Regulation 14 provides that in order to be eligible for pension an employee would have to render a minimum of 10 years' service, Regulation 29 is applicable to the employees choosing to retire from service prematurely, and in their case the period of qualifying service would be 15 years.

31. The facts of the present case, however, do not attract the provisions of Regulation 29 since the respondent accepted the offer of voluntary retirement under the Scheme framed by the Bank and not on his own volition dehors any scheme of voluntary retirement. In such a case, Regulation 14 read with Regulation 32 providing for premature retirement would not also apply to the case of the respondent. While Regulation 2 of the BOBEVRS, 2001 speaks of eligibility for applying under the Scheme, Regulation 14 of the Pension Regulations, 1995, contemplates a situation whereunder an employee would be eligible for premature pension. The two provisions are for two different purposes and for two different situations. However, Regulation 28 of the Pension Regulations, 1995, after amendment made provision for situations similar to the one in the instant case.

32. In the absence of any particular provision for payment of pension to those who opted for BOBEVRS, 2001 other than Regulation 11(ii) of the Scheme, we are once again left to fall back on the Pension Regulations, 1995, and the amended provisions of Regulation 28 which bring within the scope of superannuation pension employees who opted for the Voluntary Retirement Scheme, which will be clear from the explanatory memorandum. However, the period of qualifying service has been retained as 15 years for those opting for BOBEVRS, 2001 and is treated differently from premature retirement where the minimum period of qualifying service has been fixed at 10 years in keeping with Regulation 14 of the Pension Regulations, 1995.

33. We are, therefore, of the view that not having completed the required length of qualifying service as provided under Regulation 28 of the 1995 Regulations, the respondent was not eligible for pension under the Pension Regulations, 1995 of the appellant Bank."

20. The issue has once again been considered by Hon'ble the Supreme Court in **Punjab National Bank v. Dharam Pal Singh, (2014) 13 SCC 484.**

21. In this case, the decision of the Division Bench of this Court in ***Dharam Pal Singh (Supra)*** which was relied upon on and followed in Prem

Singh Hooda's case (supra) which in turn was the basis of the impugned

judgment of the Ld.Single Judge has been set aside.

22. Following its earlier decision in Bank of Baroda's case (supra) it has been held that an employee taking voluntary retirement under the Voluntary Retirement Scheme would be entitled to pension only in case he completed 15 years' qualifying service in the Bank.

The Court observed as under:

"2. The only question that arises for consideration in this case is whether the respondent, who took voluntary retirement from the service of the appellant, Punjab National Bank under the PNB Employees Voluntary Retirement Scheme, 2000 on completing 40 years of age (and not 15 years of service, as the alternative criterion stipulated) is entitled to receive pension.

3. The Punjab and Haryana High Court has held in favour of the respondent employee applying the provisions of Regulation 14 of the Punjab National Bank (Employees') Pension Regulations, 1995. The High Court has apparently overlooked that the opening words of Regulation 14 are "Subject to the other conditions contained in these Regulations" and as a result, applied the provision of Regulation 14 somewhat out of context.

4. Be that as it may, the question arising in this case is no longer res integra and it is conclusively decided in favour of the Bank and against the respondent in Bank of Baroda v. Ganpat Singh Deora. In that decision, this Court considered in detail Regulations 14, 28 and Regulation 29, both before and after its amendment and held that an employee taking voluntary retirement under the Voluntary Retirement Scheme would be entitled to pension only in case he completed 15 years' qualifying service in the Bank. The decision in Ganpat Singh Deora fully applies to the facts of the case. The decision of the High Court, being contrary to the aforesaid decision, must be set aside.

5. We, accordingly, set aside the decision of the High Court and dismiss the writ petition filed by the respondent. From the materials on record, however, it appears that the respondent has not been paid the amount of the Bank's contribution towards his provident fund and that amount has instead been transferred to the pension fund. The respondent was entitled to receive the amount of the Bank's contribution towards provident fund at the time of his voluntary retirement. The amount being wrongly withheld, we direct that the entire amount must be paid to the respondent, along with simple interest @ 10% per annum, within six weeks from today."

23. As the respondent in this case had not completed 15 years of service at the time of taking voluntary retirement, he is not entitled to pension.

24. Accordingly, this appeal is allowed. The judgment of the Ld. Single Judge is set aside. The writ petition is dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 03, 2016
Atul

(Refer to Reporter)