

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 1465 of 2015 (O&M)
Date of decision: 6.4.2016

Oriental Bank of Commerce and others

.. Appellants

v.

Janak Raj Sharma

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. R. N. Lohan, Advocate for the appellants.
Mr. Rajinder Sharma, Advocate for the respondent.

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Rajesh Bindal J.

The judgment of the learned Single Judge has been impugned by the bank by filing the present intra-court appeal, whereby the learned Single Judge has permitted the respondent to switch over to the pension scheme.

In the case in hand, new pension scheme was introduced on 23.8.2010. The respondent, who was working as Senior Manager with the bank, sought voluntary retirement on 15.1.2001. At the time of his retirement, he had not opted for pension scheme and being a member of provident fund, got all his dues released. On 23.8.2010, a circular was issued by the bank giving opportunity to all its employees, who retired prior to 27.4.2010 for opting for new pension scheme. The option was to be exercised by 25.10.2010. The claim of the respondent was rejected on the ground that he had not exercised the option within the time permitted. The case set up by the respondent was that he had gone abroad on 24.11.2009 to spend time with his children and came back on 18.11.2010, i.e., after the cut-off date. Immediately after coming back, having come to know about the new scheme, he exercised the option in February, 2011, however, the same was rejected. The stand of the bank is that there was due publication

of notice in the newspapers notifying the new pension scheme. The same was also uploaded on the website. The bank was not obliged to circulate the same to the prospective beneficiaries, who may be located worldwide.

However, after hearing learned counsel for the appellants, we do not find any merit in the present appeal. The issue has been considered by the learned Single Judge threadbare while referring to a Division Bench judgment of Bombay High Court in CWP No. 1020 of 2012-- Kayoji Sorabji Mirza v. The Union Bank of India and others, decided on 12.6.2013, pertaining to the same scheme, where under similar circumstances, the employee had gone abroad and exercised the option after he came back. He was held entitled to the benefits under the scheme. The scheme being same and one High Court having examined the same and taking a view in favour of retired employee, further nothing having been shown that the view taken by Bombay High Court is perverse, in our view, there is nothing wrong in the order passed by the learned Single Judge in allowing the writ petition. The judgment of Bombay High Court, though may not be binding on this court but it certainly has persuasive value.

In the case in hand, it was found that the moment the respondent came back from abroad and came in knowledge of the new pension scheme, he exercised the option within 3 months after the cut-off date. Undisputedly, he was not in knowledge of the circular being abroad.

For the reasons mentioned above, while concurring with the view expressed by the learned Single Judge, we do not find any reason to interfere in the present appeal. Accordingly, the same is dismissed.

(Rajesh Bindal)

Judge

(Harinder Singh Sidhu)

Judge

6.4.2016

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