

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.927 of 2016

IN

Civil Writ Jurisdiction Case No. 18444 of 2008

- =====
1. The Central Bank of India through the Chairman & Managing Director, Central Bank of India, Central Office, Chander Mukhi Nariman Point, Mumbai - 400021,
 2. The General Manager (P), Central Bank of India, Central Office, Chander Mukhi Nariman Point, Mumbai -400021,
 3. The Assistant General Manager, Central Bank of India, Zonal Office, Block-B, 2nd Floor, Maurya Complex, Dak Bunglow Road, Patna – 800001.
 4. The Zonal Manager, Central Bank of India, Zonal Office, Block-B, 2nd Floor, Maurya Complex, Dak Bunglow Road, Patna – 800001.
 5. The Chief Manager, Central Bank of India, Zonal Office, Block-B, 2nd Floor, Maurya Complex, Dak Bunglow Road, Patna – 800001.
 6. The Branch Manager, Central Bank of India, Danapur Branch, Patna,
 7. The Central Bank of India, Provident Fund Department, N.C.L. Society, Plot No. C6, Block No. – E, 4th Floor, Bandra Kurla Complex, Bandra (East), Mumbai – 400051 through its Provident Fund Assistant Manager / Manager
- (Respondents in the Writ Petition)

.... Appellants

Versus

Rajni Kant Choubey, Ex – Senior Manager, Central Bank of India, Danapur Branch (Compulsory retired w.e.f. 25.09.2007), son of late Sankracharya Choubey, R/o Priyambica Apartment, Rash Bihari Path, Vijay Nagar, Bailey Road, P.O. Veterinary College, P.S. Rupaspur, Distt. Patna.

(Petitioner in the Writ Petition)

.... Respondent

=====

Appearance:

For the Appellant/s : Mr. Ajay Kumar Sinha, Advocate.

For the Respondent/s : Mr. Pradeep Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 06-12-2017

Heard learned counsel for the appellants and learned counsel for the respondent.

The appellants Bank have preferred this appeal under



Clause 10 of the Letters Patent challenging the order dated 23.09.2015 passed by the learned single Judge in CWJC No. 18444 of 2008 on the ground that the respondent (petitioner in the Writ Petition), who had been ordered to be compulsorily retired as a measure of penalty, cannot be permitted to avail the option of regular pension by opting out Contributory Provident Fund scheme, which governed him initially.

Admitted position is that a large number of employees were given options of changing over to the regular pension scheme after an agreement was reached between the Bank and the Bank employees and options so exercised were accepted and acted upon within the framework of the scheme. However, a legal objection came to be raised with regard to such employees who had been compulsorily retired treating them to be a class apart.

Such submission and objection were examined by the learned single Judge. Keeping in mind the nature of the order of punishment which did not come in the way of a person availing benefit of pension which was in vogue at the relevant time, as well as keeping in mind that similar matters raised before other High Courts came to be answered in favour of the employees, the Writ Application came to be allowed.

The basic essence of the dispute has to be understood in



the context of the status of such employee after the order of punishment of compulsory retirement is issued. If the order of compulsory retirement nowhere takes away the right of such employee to beget benefit of pension which may be in vogue at the relevant time and if a scheme has come about giving options to such employees who are covered by the C.P.F. scheme earlier to switch over to the regular pension scheme then orders of compulsory retirement without punishment of withholding pension cannot come in the way of such employees opting for the new scheme of regular pension.

The argument made on behalf of the appellants Bank is that since the Bank or the Disciplinary Authority did not have the opportunity of considering imposing punishment of withholding of pension as well as part of his pension, therefore they should be given opportunity of considering the same while granting relief in favour of such employees.

We shall not go by hypothesis but we shall go by the facts which are in existence in the present appeal. What is of relevance is whether the employee in question was entitled to pension or was he debarred from deriving the benefit of pension. If an employee is not debarred from deriving benefit of pension then there is no occasion to prevent them from the benefit of new pension scheme, merely because



he was compulsorily retired. We are of the opinion that the order of the learned single Judge does not require to be interfered with in any manner.

The Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.12.2017
Transmission Date	N/A

