

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11936 of 2009

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1. Reserve Bank Retired Employees Welfare Society, through its Secretary, Shri Debi Dayal Ram, F/1, Chitra Complex, Ambedkar Path, Nandanpuri, Patna, P.O. & P.S. (B.V.College), Patna, District- Patna.
 2. Shri Debi Dayal Ram Son of Harijan Ram, Resident of F/1, Chitra Complex, Ambedkar Path, Nandanpuri, Patna, P.O. & P.S. (B.V. College), Patna, District- Patna.

.... Petitioner/s

Versus

1. Reserve Bank of India, A Statutory Body Corporate Constituted under Reserve Bank of India Act, 1934 having its Central Office at Shahid Bhagat Singh Marg, Mumbai-400001 and having Regional Office at South Gandhi Maidan, P.S. Gandhi Maidan, District- Patna.
2. The Governor, Reserve Bank of India, Shahid Bhagat Singh Marg, Mumbai-400001.
3. The Chief General Manager, Reserve Bank of India Shahid Bhagat Singh Marg, Mumbai-400001.
4. The Regional Director, Bihar/Jharkhand Reserve Bank of India, South Gandhi Maidan, Patna-800001.
5. Assistant General Manager, Reserve Bank of India, Central Establishment Section (Arrear Cell) South Gandhi Maidan, Patna-800001.
6. The Personnel Officer (Adm.) Department of Administrative & Personnel Management, Reserve Bank of India, South Gandhi Maidan, Patna-800001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gaurav Govind, Advocate
For the R.B.I. : Mr. Chittaranjan Sinha, Sr. Advocate
Mr. Kaushal Kumar Jha and
Ms. Surya Nilambari, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 15-03-2018

Heard Mr. Gaurav Govind, learned counsel for the petitioners and Mr. Chittranjan Sinha, learned senior counsel along with Mr. Kaushal Kumar Jha and Ms. Surya Nilambari, learned counsel for the Reserve Bank of India (hereinafter referred to as the 'Bank').

2. The petitioners have moved the Court for the



following relief:

“ This writ petition is being filed for issuance of writ quashing the impugned clauses contained in circulars dated 21.11.2005, 5.10.2005 and 24.10.2005 and order dated 19.2.2007 issued by the Assistant General Manager (Personnel), Reserve Bank of India, Patna contained in Annexure-4, 5, 6 & 8 respectively as being null and void, inoperative and arbitrary and also for holding the members of the petitioner no. 1 (Reserve Bank Retired Employees Welfare Society, Patna-1) to be entitled to Ex-gratia based on the revised pay and for issuance of an appropriate writ in the nature of mandamus for payment of such Ex-gratia and other consequential dues.”

3. In sum and substance, the prayer is that though they had availed of the Optional Early Retirement Scheme under the policy as circulated under Administration Circular No. 1 dated 11th August, 2003, but due to the subsequent pay revision as circulated under Administration Circular No. 10 dated 21st November, , 2005, since their pay was revised with retrospective effect, when they were still in service of the Bank, the calculation of ex-gratia payment under the policy of 2003, should also be on the basis of the revised pay scale, which has been made applicable in their case and also payment made. The same having been specifically denied in the policy of 2005, by which pay revision has been made applicable with retrospective effect stipulating that no arrears on the basis of revised pay and allowances will be payable for the amount of ex-gratia paid



by the Bank to the officer, who retired under the Optional Early Retirement Scheme. Challenge is to the said stipulation in the policy dated 21st November, 2005.

4. Learned counsel for the petitioner submitted that at the relevant time, in the year 2003, when the petitioner no. 2 had opted for the Optional Early Retirement Scheme, he was paid ex-gratia on the basis of pay+ dearness allowance which he was drawing on the relevant day, i.e., on the last day of his service. It was submitted that later on in the year 2005, when the Bank came out with pay revision for its employees, the same was given effect from 1st November, 2002 i.e., retrospectively. Learned counsel submitted that once the Bank has taken a conscious decision to revise and actually pay, the difference in terms of the revision with retrospective effect, the petitioners being in service as on 1st November, 2002, were also given the actual benefit of such revision. It was submitted that in terms thereof, once the pay+ allowance as on the day on which their retirement came into effect, such amount stood revised and became higher in terms of the pay revision. It was contended that as a consequence, the authorities are also required to recalculate the ex-gratia, for the basis of such calculation being pay + allowance stood enhanced, though on a later day. It was contended that in the note to Clause-5 of the policy dated 11th August, 2003, relating to ex-gratia,



the same states that pay + dearness allowance for the said purpose would be paid as defined in regulation 3(f) of RBI (Staff) Regulations, 1948, admissible in the grade held on the date of retirement plus dearness allowance admissible thereon on the date of retirement. He submitted that once the pay and dearness allowance is admissible as on the date of retirement, which stood enhanced, maybe later on, but that becomes the pay and the dearness allowance on which calculation under the Optional Early Retirement Scheme has to be recalculated. Learned counsel submitted that the Bank cannot on the one hand make the revision of pay applicable with regard to the period for which the petitioners were in service but on the other hand not make it applicable for the purpose of any other benefit under the Optional Early Retirement Scheme, by creating a sub category in the same category of persons who may not be in employment, either pursuant to they having retired attaining the age of superannuation or having opted for the Optional Early Retirement Scheme. It was contended that such differentiation is without any basis or rationale and, thus, arbitrary and requires to be interfered with.

5. Learned counsel for the Bank submitted that the writ petition is misconceived. He submitted that besides the issue having been decided by the Calcutta High Court and the Karnataka High



Court, the contention of the petitioners is untenable in the eyes of law. It was submitted that the petitioners took benefit of Optional Early Retirement Scheme in the year 2003 and accordingly were paid all benefits. It was submitted that the note to Clause-5 of the said policy relating to ex-gratia has not been properly appreciated by the petitioners, inasmuch as, it talks of the pay and dearness allowance on the date of retirement. Learned counsel submitted that whatever amount was being drawn as pay and dearness allowance was taken into account while arriving at the figure of ex-gratia as on the date of his retirement about which there is no controversy. Learned counsel submitted that just because later on after two years, there has been a pay revision would not *ipso facto* and automatically entitle the petitioners to a benefit under the specific policy of the Bank for the Optional Early Retirement Scheme. A benefit taken by the petitioners under the Optional Early Retirement Scheme attains finality if the parties agree to the terms and conditions of the said scheme. Learned counsel submitted that the pay revision in the year 2005 was first of all pursuant to an agreement between the workers and the Bank authorities and secondly and more importantly, even though it was made effective retrospectively, any benefit on account of the same for the period the petitioner was actually in service having been granted to him is by way of grace shown by the Bank



and not due to him as a matter of right under any law or statute. Learned counsel drew the attention of the Court to the judgment of the Calcutta High Court in the case of **Partha Bandyopadhyay vs. Reserve Bank of India & Ors. (W.P. No. 1467 of 2006)** and its analogous cases dated 07.04.2016, in which such contention has been negated and also the decision of the Karnataka High Court dated 01.12.2011 in the case of **T Dhandapani & Ors. vs. Reserve Bank of India & Ors. in Writ Petition No. 3621 of 2008 (S-RES)** and analogous cases which also has negated such contention as has been raised on behalf of the petitioners in the present case.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the writ application. The Court has gone through the judgments of the Calcutta High Court and the Karnataka High Court. The same have elaborately dealt with the issue and the Court is in agreement with the view taken by the Courts in the aforesaid two cases. However, just for a quick recapitulation, the settled law, as of now, is that any action taken by either of the parties pursuant to a scheme binds the parties *inter se*. Further, the same is in the nature of a contract and once a party has accepted the terms and conditions, it cannot turn around and challenge or demand as a matter of right, any further benefit which is not contemplated under



the original policy. As has been held by the Courts, after an employee takes retirement under any scheme prior to his actual date of superannuation, he is precluded from agitating or demanding any further benefits, including pay revision. In the present case also, even if the Bank has paid the benefit of revision of pay for the period the petitioner was actually in service, is clearly by way of a grace and not as a matter of right of the petitioner. Subsequently, in the policy dated 11th November, 2005, when specifically with regard to revision of pay, the Bank, by way of grace, has held the same payable with retrospective effect i.e., 1st November, 2002, stipulating at the same time that it would not entitle a person to any further benefit on the basis of such revised pay and allowance to be payable for the amount on ex-gratia paid by the bank to the officers who retired under the Optional Early Retirement Scheme, leaves no occasion for any ambiguity in the intention of the policy of the bank for such pay revision, which was not required to be given benefit of to persons who had already opted and retired under the Optional Early Retirement Scheme and whatever benefit has been given can only be termed as a grace by the Bank towards such employees/officers. Present is not a case where a benefit which had accrued to the petitioner under the policy dated 11th August, 2003, which was sought to be taken away/reduced/curtailed by the policy decision



dated 21st November, 2005, in which case, the petitioner could have had a case against the action of the Bank.

7. In the present case, besides the curtain coming down and the matter attaining finality under the policy of the Bank dated August, 11, 2003, if in future, the petitioner has been granted such benefit, the same in no way can lead to any correction of any further or consequential right in the petitioner which can be enforced much less by a Court of law.

8. In view of the discussions made hereinabove and also adopting the reasoning given by the Calcutta High Court and the Karnataka High Court in the aforesaid two decisions, the present writ application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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