

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.603 of 2006

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Bank of India through its Chief Manager, R. Block Bir Chand Patel Marg, Patna.

.... Petitioner/s

Versus

1. Presiding Officer, Central Govt. Industrial Tribunal, No.2 Dhanbad through Union of India
2. Sri T. N. Dubey, General Secretary, Bank of India Staff Association, Regd. Office C/o Bank of India, Frazer Road, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Adv.
Mr. Braj Nandan Kumar Tiwary, Adv.
For the Respondent No.1 : Mrs. Kanak Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-02-2018

In the present writ petition the petitioner has prayed for quashing the award dated 11th July, 2005 passed by the Presiding Officer, Central Government Industrial Tribunal (for short 'Industrial Tribunal'), Dhanbad in Reference Case No. 38 of 2002 whereby he has held that the action of the management of the Bank of India, Patna in rejecting the application of Sri T.N. Dubey to become member of Bank of India Retired Employees Medical Assistance Scheme (for short 'Medical Assistance Scheme') is not justified and directed to enroll him as a member of the aforesaid Medical Assistance Scheme if the respondent no.2 would file an application in this regard.



2. Heard Mr. Rupak Kumar, learned Advocate for the petitioner and Mrs. Kanak Verma, learned Advocate for the Union of India. Though notices were validly served upon the respondent no.2, who entered into appearance and filed his counter affidavit, on calls, he has neither appeared in person nor is being represented through lawyer.

3. Mr. Rupak Kumar, learned Advocate appearing for the petitioner submitted that the Medical Assistance Scheme does not include such category of retired employees, who had taken voluntary retirement under Special Voluntary Retirement Scheme, 2000 (for short 'VRS, 2000'). The award passed by the Industrial Tribunal amounts to enlarging the scope of the Medical Assistance Scheme, meaning thereby, asking the management to open Pandora's box. He submitted that the order passed by the Industrial Tribunal is without jurisdiction as the Industrial Tribunal had no authority to enlarge the scope of the Medical Assistance Scheme.

4. In the counter affidavit respondent no.2 has taken a plea that VRS, 2000 did not exclude the benefits of the Medical Assistance Scheme to the employees on accepting voluntary retirement. His contention is that the benefit which had already accrued and vested in the employees could not have been withdrawn with retrospective effect.



5. Mrs. Kanak Verma, learned advocate for the Union of India submitted that the award passed by the Industrial Tribunal does not suffer from any illegality or irregularity. She submitted that adequate reasons have been assigned in the award while holding that the action of the management of the Bank of India in rejecting the application of respondent no.2 to become member of the Medical Assistance Scheme was not justified.

6. The facts of the case, in brief, are that the respondent no.2 was working as Staff Clerk in the Bank and had taken voluntary retirement in terms of VRS, 2000 after completion of 35 years of service and was relieved from service on 15th December, 2000. On the date of retirement he had attained the age of 58 years and after his retirement from service he was allowed all his retirement benefits.

7. The Bank of India introduced the Medical Assistance Scheme for giving benefit to its retired employees. The respondent no.2 also applied for its membership, but the same was rejected by the Bank.

8. Being aggrieved by the rejection of application, initially an industrial dispute was raised by the respondent no.2 before the Conciliation Officer. On notice, the Bank of India appeared and placed its case before the Conciliation Officer. Since the conciliation failed, the Government of India, Ministry of Labour, in exercise of



power conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short 'I.D. Act, 1947'), referred the dispute before the Industrial Tribunal, vide notification dated 2nd May, 2001, on the following terms :-

“Whether the action of the management of Bank of India, Patna in rejecting the application of Shri T.N. Dubey to become member of Bank of India Retired Employee Medical Assistance Scheme is justified ? If not, what relief is the disputant entitled to ?”

9. Clause 4 of the Medical Assistance Scheme, which stipulates the condition of membership of the aforesaid Scheme, reads as under :-

“**4. Membership:** The membership of the Scheme is restricted to the following :-

- (a) Those who have retired from the service of the Bank on superannuation.
- (b) Those who have been allowed to retire from Bank's service on medical grounds.
- (c) Those who have taken voluntary retirement from the Bank's service in terms of the provisions of Bank of India (Officers') Service Regulations, 1979 and who are not gainfully employed.
- (d) Those who have taken voluntary retirement from the Bank's service in terms of the provisions of Bank of India Employees Pension Regulations, 1995 after completion of 55 years of age or 30 years



of service in the Bank and not gainfully employed.

- (e) Spouses of those retired employees mentioned above, if they are not gainfully employed.
- (f) Spouses of those employees who died in harness, who were not gainfully employed (gainfully employed means those who are in employment and monthly salary/wages per month is Rs.1,500/- or more).

10. From perusal of clause 4 of the aforestated Medical Assistance Scheme, it would appear that no other method than provided there in that Scheme would make any one eligible for membership and benefit under the Scheme. For all practical purposes, in respect of getting benefit under the Medical Assistance Scheme, the employees, who had taken voluntary retirement under VRS, 2000, had been kept out. They are different class. Thus, they cannot claim parity with the persons, who had taken voluntary retirement under the Bank of India (Officers) Service Regulations, 1979 or under Bank of India Employees Pension Regulations, 1995. Once it was found that the respondent no.2 was not eligible for membership under Medical Assistance Scheme, I find it difficult to uphold the order passed by the Industrial Tribunal.

11. It is the case of the petitioner that the respondent no.2 was working as Staff Clerk in the Bank and had taken voluntary



retirement in terms of specially devised scheme known as VRS, 2000, which had its own benefits. The benefits provided under VRS, 2000 are better than the benefits provided under Bank of India (Officers) Service Regulations 1979 or benefit of voluntary retirement provided under the Bank of India Employees Pension Regulations, 1995.

12. The Industrial Tribunal has passed the award dated 11th July, 2005 holding that the management is bound to grant membership to such employees, who took voluntary retirement under VRS, 2000, if it is found that the said employees fulfill the condition laid down under Clause 4 of Medical Assistance Scheme and directed the Bank to enroll the respondent no.2 in the said Scheme. The findings recorded by the Industrial Tribunal are apparently erroneous. From a bare reading of clause 4 of the Medical Assistance Scheme, it would be manifest that the employees, who took voluntary retirement under VRS, 2000, are not covered. The direction given by the Industrial Tribunal to enroll the respondent no.2 as member under the said Scheme clearly amounts to enlarging the scope of the Scheme for such class of employees, who cannot be member under that Scheme by interpretation of any clause of VRS, 2000. The petitioner has rightly submitted that the Tribunal had no jurisdiction or authority to enlarge the scope of the VRS, 2000. The employees, who had taken voluntary retirement under VRS, 2000 do constitute a separate class



and nothing has been shown that the classification made by the management was not reasonable.

13. In view of the discussions made above, the order impugned dated 11th July, 2005 passed by the Presiding Officer, Industrial Tribunal, Dhanbad in Reference Case No. 38 of 2002 is set aside.

14. The writ petition stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	

