

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1139 of 2017

In
Civil Writ Jurisdiction Case No.18508 of 2013

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Sunil Kumar Sinha, son of Late Indra Deo Narayan, Resident of Oppo of Dr. Bharat Bhushan, G.C. Banerjee Road, Bhikanpur, Gumti No. 2, District – Bhagalpur.

... .. Petitioner-Appellant/s

Versus

1. The Union Bank of India through its Chairman-Cum-Managing Director, Central Office, Nariman Point, 239, Vidhan Sabha Marg, Mumbai.
2. The Branch Manager, Union Bank of India, Bhagalpur Branch, District - Gorakhpur (U.P.).
3. The Deputy General Manager, Nodal Regional Office, Union Bank Of India, Patna.
4. The General Manager (P), Central Office, Union Bank Of India, Mumbai.
5. The Incharge, Pension Cell, Central Office, Mumbai.

... .. Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Dinu Kumar, Advocate
Mr. Swapnil Kumar Singh, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-08-2018

1. Feeling aggrieved and dis-satisfied with the impugned judgment and order dated 14.07.2017 passed by the learned Single Judge in Civil Writ Jurisdiction Case No.18508 of 2013 by which the learned Single Judge has dismissed the said petition preferred by the original petitioner, the original petitioner has preferred the present Letters Patent Appeal.

2. At the outset, it is required to be noted that the appellant herein-original petitioner approached this Court by way



of aforesaid writ petition with a prayer to issue appropriate writ directing the respondents to pay pension to the petitioner, who retired after getting voluntary retirement under the Voluntary Retirement Scheme 2000-01.

2.1 Having noted that the petitioner had served the Bank for less than 29 years and thus, he did not serve for a minimum period of 30 years, which was minimum requirement for eligible to get the benefit of pension scheme, by the impugned judgment and order, the learned Single Judge dismissed the writ petition.

3. We have heard learned counsel appearing for the respective parties at length and perused the impugned judgment and order passed by the learned Single Judge. Learned counsel appearing for the appellant has reiterated what was submitted before the learned Single Judge.

4. At the outset, it is required to be noted that earlier the petitioner approached this Court by filing Civil Writ Jurisdiction Case No.11748 of 2012 and prayed for acceptance of application for pension in terms of the option of the pension under Staff Circular No.4669 dated 07.11.2000. The said writ petition came to be withdrawn unconditionally and that too without leave of the Court to institute a fresh petition on the same subject matter.



Therefore, the learned Single Judge rightly observed that in view of the decision of the Hon'ble Supreme Court in the case of ***Daryao Versus State of U.P.*** reported in ***AIR 1961 SC 1457***, the petitioner cannot raise the claim for pension under the Scheme of 2000.

4.1. That thereafter, the learned Single Judge has considered the case of the petitioner and eligibility of pension in terms of subsequent option for pension introduced by the Bank under Staff Circular No.5943 dated 16.01.2013. Clause 6 of the aforesaid Staff Circular No.5943 dated 16.01.2013 provided the salient feature of the second option for pension extended to officers/family of the deceased officers voluntarily retired under Regulation 19(1) of the 'OSR, 1979'. As per Regulation 19 (1) of the 'OSR, 1979', in order to exercise option under the Scheme, one of the essential requirements was that the officer employee should have served for a minimum period of thirty years or should have completed fifty years of age, whichever is earlier and then sought retirement under Section 19(1) of the 'OSR, 1979'.

4.2. It is an admitted position that the petitioner then had served the Bank for a period of 29 years of service. Therefore, he did not have the qualifying years of service or minimum age requirement in terms of Regulation 19(1) of the 'OSR, 1979'.



4.3. Under the circumstances, on non-fulfillment of the essential requirements, the appellant herein- original petitioner was not entitled to the benefit of the pension scheme which was launched vide Staff Circular No.5943 dated 16.01.2013, more particularly, when the appellant had taken the voluntary retirement under the voluntary retirement scheme of 2000-01 and had availed of the benefits of that Scheme.

5. In view of the above facts and circumstances it cannot be said that the learned Single Judge has committed any error in dismissing the petition, which calls for interference under the intra-court appellate jurisdiction.

6. In view of the above, for the reasons stated above, there is no substance in the Appeal and the same deserves to be dismissed and is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2018
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