

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22700 of 2016

V.Chandrasekar @ Sivachandran

... Petitioner

vs.

1. Punjab National Bank,
General Manager,
Human Resources Development,
No.7, Bhikhjai Cama Place,
New Delhi - 110 066.

2. Punjab National Bank,
Rep. by its Deputy General Manager,
PF & Pension Fund Department,
Head Office; Rajendra Bhawan,
Rajendra Place,
New Delhi - 110 008.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, calling for the records leading to the order passed by the 1st respondent dated 26.10.2015 in Ref.PENSION/61020/1614 and quash the same and consequently direct the respondents to grant the petitioner compassionate allowance.

For Petitioner : Party-in-Person

For Respondents 1&2 : Mr.S. Jayaram

O R D E R

The order of rejection dated 26.10.2015 passed by the Deputy General Manager of the respondent bank is under challenge in the present writ petition. The writ petitioner joined in the service of the Punjab National Bank as Clerk/Typist from 10.02.1986 and he was promoted as Officer Grade-1 with effect from 20.11.1991.

2. The petitioner claims that he was working sincerely and without any adverse remarks. However, on account of an allegations of the unauthorized absence for about 2 ½ years. The disciplinary proceedings were initiated and finally the writ petitioner was dismissed from service in order dated 15.01.2005. In respect of the final order of dismissal from service, the same reached finality and the present writ

petition has been filed seeking compassionate allowance (Pension) under regulation 31 of PNB (Employees) Pension Regulation, 1995.

3. The writ petitioner submitted a letter on 04.08.2015 addressed to the Hon'ble Prime Minister of India which was forwarded to the respondent bank for consideration in respect of sanction of compassionate allowances. The said application was considered by the respondent bank and they have declined to grant the benefit of compassionate allowance on the ground that the writ petitioner was a PF Optee at the time of imposition of the referred pension. This apart, the petitioner was not eligible for opting pension in terms of second pension option as per PF and Pension Department, Circular No.08/2010 dated 16.08.2010.

4. The petitioner in person articulated his case by stating that he is eligible for full pension in accordance with the provisions of pension Rules. In this regard, he cited the general guidelines of pension more specifically in relation to the compassionate allowance which reads as under:-

5. The party in person further made a submission that the second option was not exercised by him on account of the lapses on the part of the respondent bank. The respondent bank have not intimated to him in respect of exercise of option under the pension Rules. Thus, he could not able to exercise his option for opting pension benefits. However, he continued as a PF Optee throughout his service till the imposition of punishment of dismissal from service.

6. The learned counsel appearing on behalf of the respondents disputed the contention raised by the writ petitioner by stating that the writ petitioner was dismissed from service based on the proved charges of unauthorized absence for about 2 ½ years. The writ petitioner all along continued as the PF Optee and not exercised the second option to adopt the pension Rules. Thus, he is not eligible for pensionary benefits including compassionate allowance which is prescribed in the pension regulations. The writ petitioner will not come under the purview of pension regulation at all. The writ petitioner had already received all the benefits under the PF scheme. Thus the writ petition deserves no merit consideration.

7. This Court is of an opinion that, the writ petitioner was admittedly dismissed from service on account of the allegations of unauthorized absence. The said order of dismissal reached finality. The only claim of the writ petitioner is that he is eligible for compassionate allowance under the pension regulations. The petitioner admits the fact that he continued as PF Optee. However, he claims that the opportunity to exercise the second option was denied by the bank, since they have not provided any information in this

regard. However, this Court cannot consider such disputed facts and the writ petitioner being employed as Clerk/Typist at the first instance and thereafter promoted to the post of Officer Grade-1, he cannot plead ignorance of law or the procedures followed by the bank. The petitioner served as Officer Grade-1 and subsequently opted to serve in the lower post.

8. This being the factum of the case, the writ petitioner cannot claim any ignorance in respect of the procedures followed and in respect of the implementation of pension scheme in the bank. As far as the benefit of compassionate allowance is concerned, the same is contemplated under the pension regulations. In view of the fact that, the writ petitioner at no point of time opted for pension scheme, he is not eligible to claim the said compassionate allowance. Admittedly, the writ petitioner continued only as a PF Optee. Further it is not disputed that all the benefits as applicable to the PF Optee had been settled in favour of the writ petitioner and he had received the same.

9. This being the factual matrix of the present lis on hand, this court is of an opinion that there is no infirmity in respect of the reasons furnished in the impugned order passed by the respondent in proceeding dated 26.10.2015. Thus, the writ petition is devoid of merits and stands dismissed.

Pkn

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Punjab National Bank,
General Manager,
Human Resources Development,
No.7, Bhikhjai Cama Place,
New Delhi - 110 066.
2. The Deputy General Manager,
Punjab National Bank,
PF & Pension Fund Department,
Head Office; Rajendra Bhawan,
Rajendra Place,
New Delhi - 110 008.

+1cc to Mr.S.Jayaram, Advocate S.R.No.72788

+2ccs to Mr.V.Chandrasekar, Advocate S.R.No.72466

KR/15/11/18