

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 824 of 2018**

{Arising out of Order dated 28.09.2018 passed in Writ Petition (S) No. 1620 of 2012 by the learned Single Judge}

1. UCO Bank Through The Chairman, H.Q.10, BTM Sarani, Kolkata, West Bengal, 700001.
2. The General Manager UCO Bank, Personal Services Department, H.O. 3-4, D.D. Block, Salt Lac, Sector -1, Kolkata, West Bengal.
3. The Zonal Manager UCO Bank, Zonal Office, Chhattisgarh, Eye Hospital Campus, Telibandha, Raipur, District Raipur Chhattisgarh.
4. The Chief Manager UCO Bank, MV Market, Telipara Road, Bilaspur, District Bilaspur Chhattisgarh.

---- Appellants

Versus

S.K. Shrivastava S/o Shri P.K. Shrivastava Aged About 48 Years Ex-Manager, UCO Bank, Bilaspur, R/o 414, Shwethansa Apartment, D.D. Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondent

For Appellant	: Shri Ravindra Sharma, Advocate.
For Respondent	: In person

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****07/01/2019**

1. Writ application of the private Respondent, who was the Petitioner before the writ Court was allowed. The learned Single Judge treated the letter of resignation for voluntary retirement from service w.e.f 16.05.2011 to be accepted and the Appellant-Bank was further directed to settle the

consequential benefits. This order dated 28.09.2018 is under challenge in the present appeal.

2. Some facts behind the present dispute is that the private Respondent entered into the service of the Appellant-Bank as a Clerk-cum-Godown Keeper on 10.09.1983. He earned his promotion over a period of time and was holding the post of a Manager when he decided to tender his resignation for voluntary retirement on 04.10.2010. The notice was valid for a period of three months. Since there was no action on the part of the Appellant-Bank to take cognizance of the said resignation letter, the private Respondent continued to work for sometime *i.e.* till 16.05.2011. After the said day, he did not work for the Bank but when his dues were not settled, he decided to approach the High Court by filing Writ Petition (S) No. 1620 of 2012.
3. The Bank (Employees) Pension Regulations, 1995 contemplates voluntary retirement from service under clause 29(2). The said clause reads as under:

“The notice of voluntary retirement given under sub-regulation (1) shall require acceptance by the appointing authority.

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.”

4. Building on the case before the learned Single Judge, submission was made that no doubt, the appointing authority had a right to refuse acceptance of notice for voluntary retirement but in case he fails to do so before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.
5. Accepted position is that no decision refusing permission ever came to be served upon the employee either before 04.01.2011 *i.e.* the date of expiry of the notice or even the extended period of work which the employee had put

under the Bank which is said to be 16.05.2011. Submission, therefore, on behalf of the Respondent-employee was accepted based on the plain reading of clause 29(2) of the Regulations, 1995.

6. This Court, while hearing the appeal directed the Appellant-Bank to produce evidence before the Court to show or establish that the Bank or the appointing authority had communicated their decision to the employee refusing his letter of voluntary retirement before the master and servant relationship came to an end either before the expiry of the period of three months or may be the extended period till he continued to serve the Bank. This leeway was given as an opportunity to the Bank to establish that they had exercised their option of refusal on application for voluntary retirement.
7. The best piece of evidence produced before this Court is brought with the application for taking document on record i.e. IA No. 2 of 2019 which is a letter dated 29.06.2011. This is supposed to be a communication made by the Chief Manager to the employee informing him that the competent authority had not acceded to the request of voluntary retirement. This communication or letter dated 29.06.2011 has been shown to have been dispatched under registered post on 01.07.2011 which too remained unserved in terms of the Postal Department's endorsement.
8. In this background, the Court has to consider whether the decision of the learned Single Judge, keeping in mind the various decisions on which reliance had been placed, can be said to be bad in law.
9. Bereft of all other facts and consideration, since the option of refusal of notice for voluntary retirement was not exercised by the Bank before the expiry period of notice i.e. 04.01.2011 or even by 16.05.2011 when the employee decided to sever his relationship from the Bank much after the period of expiry of the period of notice, any subsequent communication or decision of refusal cannot have retrospective effect since what had already

been done could not be undone. If a decision not to accept the notice or letter of resignation of voluntary retirement was required to be taken by the management, it ought to have been done either before 04.01.2011 or at least before 16.05.2011.

10. The management of the Appellant-Bank having failed to do, the decision of the learned Single Judge cannot be said to be illegal in any manner.
11. No interference is required with the impugned order dated 28.09.2018. The appeal is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE