IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10610-2013 (O&M)
Date of Decision: 23.10.2019

P. Venkata Rao **... Petitioner**

vs.

Oriental Bank of Commerce and Ors. **.. Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. H.S.Dhindsa, Advocate
for the petitioner.

Mr. Jagat Arora, Advocate
for the respondents.

*****

ARUN MONGA, J.(ORAL)

Inter alia issuance of a writ in the nature of *certiorari* has been sought by the petitioner herein, to quash letter/order dated 07.01.2011 and 04.05.2012 (Annexures P-5 and P-6) respectively, whereby the request of the petitioner for grant of pension has been declined.

2. Petitioner's claim seeking the pension arises out of introduction of pension scheme dated 13.11.2010 (Annexure P-7) vide which all the employees of the respondent-bank are given the option to join pension scheme as per the terms contained in the said scheme.

3. Pursuant thereto, petitioner also opted for the scheme. However, his case was rejected on the specious plea that since he was originally employed by erstwhile Global Trust Bank, therefore, he is not entitled to seek benefit of the scheme, notwithstanding that at the time of his superannuation, he was employee of the respondent-Oriental Bank of Commerce.

4. Having heard the rival contentions of the learned counsels and

after perusal of the pleadings and the record appended thereto, I am of the opinion that once the erstwhile employer/transferee bank i.e. Global Trust Bank had been taken over by the respondent-Oriental Bank of Commerce/Transferee Bank and all the employees working in the erstwhile Global Trust Bank had also been taken over by the transferee Bank, it was not open for the respondent-Oriental Bank of Commerce to reject the case of the petitioner on a specious plea that he would continue to be governed by the service condition of the transferor Bank.

5. In any case, the said issue is no more *res-integra* as the same was laid to rest in a judgment rendered by this Court in CWP-6584-2002. K. Kannan, J (as his Lordship then was) speaking for this Court, opined thus:-

> "*If in a scheme of amalgamation, a clause specifically provided that an employee of a transferor bank would be treated as an employee of the transferee bank, then whatever benefit was available to an employee of a transferee bank ought to have been extended to the petitioner, including the benefit of pension. The entire length of service in the transferor bank must be considered as in the service of the transferee bank and if there have been any contributions to the contributory provident fund in lieu of pension or any other contribution for pension in the transferee bank, which would be necessary for the period of service in the transferor bank, the same be debited against the petitioner with interest at 12% and be adjusted at the time of calculation of the pension payable to the petitioner.*"

6. I am in respectful agreement with the ratio of the said judgment as culled out above.

7. The said judgment has since attained finality as LPA filed

against the same was also dismissed. Similar was the fate in the Hon'ble Supreme Court of India as the SLP was also dismissed.

8. Argument of the learned counsel for the respondent-Bank that since the merger scheme of the transferor bank with transferee bank clearly stated that the employees of the erstwhile Global Trust Bank shall continue to be governed by their original service conditions and will not be entitled to seek benefit of the service conditions in Oriental Bank of Commerce is, therefore, quite vapid, to say the least.

9. Learned counsel for the petitioner submits that petitioner has, throughout, been willing to abide by the conditions of the scheme and return the bank's contribution towards Contributory Provident Fund on the same terms and conditions as were offered to the employees of Oriental Bank of Commerce.

9. In the aforesaid premise, writ petition is allowed. Impugned orders dated 07.01.2011 and 04.05.2012 are set aside with a direction to the respondent-Oriental Bank of Commerce to accord the benefit of pension scheme to the petitioner on the same terms and conditions as was accorded to its own employees by treating the petitioner also on parity.

10. The amount of Contributory Provident Fund shall also, accordingly, be refunded by the petitioner on the same rate of interest as has been provided in the scheme.

11. Let needful be done within a period of three months from the date of receipt of certified copy of this order.

23.10.2019 **(ARUN MONGA)**
smriti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No