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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 01.08.2019

\+ W.P.(C) 366/2019 & CM APPL. 1712/2019

SUDHIR KUMAR MEHROTRA ..... Petitioner

Through Mr.Chetan Sharma, Sr. Adv. with Mr.Avinash Sharma, Mr.Madhav Dadhich & Mr.Amit Gupta, Advs.

versus

PUNJAB NATIONAL BANK AND ORS. ..... Respondents

Through Mr.Navin Kumar Jha, Adv. with Mr.Julimoni Saikia, Adv.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

1. Vide the present petition, the petitioner seeks direction directing the respondents to release the pension to the petitioner and the arrears of pension with effect from 27.11.2009 in terms of Circular No. 06/2018 dated 07.06.2018 issued by the Respondent Bank.

2. The case of the petitioner is that respondent bank compulsorily retired the petitioner from service in the year 2004 in public interest. On 07.06.2018, the Department of PF & Pension Fund of the respondent bank issued a circular bearing No.06/2018 regarding second Option of Pension for

Compulsory Retired Officers/Employees. As the benefits were being provided by the aforementioned circular, the Petitioner applied under the 2nd Option of Pension to the Chief Manager of the PF &Pension Fund Department, PNB, Dwarka, New Delhi.

3. The petitioner received a letter from PNB on 10.08.2018 regarding inclusion of the petitioner's application under 2nd Pension Option, in which Department of PF & Pension Fund of the respondent bank stated that since the petitioner was retired from the Bank's service in public interest under the PNB (Officers) Service Regulations, 1979, the petitioner is not eligible to exercise 2nd Pension Option in terms of Circular mentioned above. After receiving the aforesaid letter from the Department of PF & Pension Fund of the respondent bank, the petitioner wrote a letter dated 14.08.2018 to the President/General Manager of the All India Punjab National Bank Officers Association and also to the Chairman of the Punjab National Bank on 02.09.2018 regarding not considering petitioner's application for 2nd Option of Pension.

4. Mr.Chetan Sharma, learned Senior Advocate appearing for the petitioner submits that the act(s) and omission(s) on the part of the respondents Bank in not considering the petitioner without assigning any

reason as per the Circular mentioned above is illegal and arbitrary in nature. Thus, the conduct of the respondent bank has resulted into gross violation of Articles 14, 19 and 21 of the Constitution of India.

5. Learned senior counsel further submitted that petitioner is a senior citizen of aged about 72 years and was ex-employee of the respondent bank. On 27.09.2004, the petitioner received a letter from the Competent Authority of Special Review for continuation in bank service under the PNB Officers Service Regulations, 1979, considering the petitioner's performance has opined that the petitioner's continuance in bank's service would not be in public interest and therefore, the respondent bank decided to retire the petitioner from Bank's service with immediate effect. However, on 13.12.2004, the petitioner received a letter from the respondent bank regarding *"Settlement of Terminal Dues - Retirement Benefits"* and on the same date i.e. on 13.12.2004, the petitioner received a letter from the respondent bank regarding furnishing of information related to the payment of the welfare measures i.e. *Ex-gratia,* Benevolent Fund, Relief Fund assistance, leave encashment etc. On 07.06.2018, the Department of PF & Pension fund of the respondent bank issued the circular mentioned above

regarding 2nd Option of Pension for Compulsory Retired Officers/Employees.

6. Learned counsel further submits that as the petitioner is entitled for the benefits provided by the abovementioned circular in question, the petitioner applied in the 2nd Option of Pension for Compulsory Retired Officers/Employees to the Chief Manager of the PF & Pension Fund Department vide application dated 08.08.2018. On 10.08.2018, the petitioner received a letter stating therein that since the petitioner was retired from the Bank's service in public interest under the PNB (Officers) Service Regulations, 1979, the petitioner is not eligible to exercise 2nd pension option in terms of Circular mentioned above.

7. Mr.Sharma has drawn the attention of this court to the compulsory retirement order dated 27.09.2004 which is Annexure P-1 whereby it is stated that after considering the performance of the petitioner, it is opined that his performance in bank's service would not be in the public interest and has, therefore, decided to retire him from Bank's service with immediate effect. In the said communication dated 27.09.2004, it is no where mentioned that the petitioner would not be entitled for any of the retiral benefits.

8. Further submitted, as per circular dated 07.06.2018, there is no distinction made between the premature retired employees and compulsory retired officers. It is specifically stated in the abovementioned circular that 2nd Option of Pension may be allowed to ex-officers/ex-employees who were compulsorily retired from the bank's service between 29.09.1995 to 27.04.2010 on same terms and conditions as are mentioned in Bipartite Settlement/Joint note dated 27.04.2010. It is further stated that as per the agreed terms and conditions of the said Bipartite Settlement, the pension shall be payable w.e.f. 27.11.2009 provided that employees/officers who are compulsorily retired after that date shall get pension from the respective dates of such retirement. It is further specifically stated that the court cases, if any, in the matter may be withdrawn forthwith.

9. Learned senior counsel submitted that the reasons denying the pension to the petitioner are that when the petitioner was working as Senior Manager (Incumbent Incharge) at Branch Office Nauroji Nagar, New Delhi, one locker holder reported that locker could be opened with some difficulty and the valuables were not in the locker. Moreover, 15 more lockers were in the same state of affairs. The matter was immediately reported to controlling officers and FIR was lodged with Police Station. Team of Security Officers,

M/s Steel Industry and M/s Godrej Industries along with their officers from Bombay came to assess as to how lockers were opened and then put to such condition that they could not be opened with keys. However, they were not able to reach any concrete result, therefore, Delhi Police made out all efforts but could not catch the culprit. After few months, the matter was sorted out by UP/Delhi Police and valuables were recovered. During this period, the petitioner was put under suspension and then retired compulsorily on 27.09.2004.

10. Learned counsel further submitted that one peon of the bank was officiating as guard in the absence of Guards in the Branch. This fact was reported to Senior Regional Manager Office. The officiating of Peon as Guard was as per Bank's procedure. The keys of the vault and cash safe were with the Manager (Second Man) posted at the Branch. The locker keys/master keys were with the locker incharge during the day time as per procedure. The Branch was under Concurrent Audit and the Inspector was Bank's own staff and not Chartered Accountant. Regular inspection by the Regional Office was also being done. The peon had broken the locker with connivance with some other culprits (co-accused in UP) they were arrested and put to trial in the criminal case. However, no memo/chargesheet was

issued against the petitioner. No criminal case was registered against the petitioner, however, vide order dated 27.09.2004, the petitioner was retired compulsorily in the public interest without mentioning the reasons therein. It is also not mentioned that whether the petitioner would be entitled for any of the retiral benefits or not.

11. Mr.Sharma, relying on the Regulation 19, whereby the petitioner has been denied the pension, states that neither the petitioner was compulsorily retired from bank's service, nor terminated. However, the petitioner was retired prematurely in terms of Regulation 19 of PNB (Officers') Service Regulations, 1979.

12. On perusal of Regulation 19(1), the age of retirement of an officer employee shall be as determined by the Board in accordance with the guidelines issued by the Government from time to time. Provided, the Bank may retire at its discretion, on review by the Special Committee as provided hereinafter in Sub-Regulation (2), if is of the opinion that it is in the public interest, an officer employee on or at any time after completion of55 years of age or on or at any time after the completion of 30 years of total service as an officer employee or otherwise whichever is earlier. Provided further that before retiring an officer employee, at least three months' notice in

writing or an amount equivalent to three months substantive salary/pay and allowances, shall be given to such officer employees.

13. Thus, learned counsel submits that as per the Regulation 19(1) there is no difference of compulsory retirement or premature retirement.

14. On the other hand, learned counsel appearing on behalf of the respondents has drawn the attention of this court to Regulation 32 & 33 which are reproduced as under:

> *"32. Premature Retirement Pension*
> *Premature Retirement Pension may be granted to an employee who-*
> *a) has rendered minimum ten years of service; and*
> *b) retires from service on account of orders of the Bank to retire prematurely in the public interest or for any other reason specified in service regulations or settlement, if otherwise he was entitled to such pension on superannuation on that date.*
> *33. Compulsory Retirement Pension*
> *1) An employee compulsorily retired from service as a penalty on or after 1st day of November, 1993 in terms of Punjab National Bank Officer Employees'(Discipline and Appeal) Regulations, 1977 or awards/settlement may be granted by the authority higher than the authority competent to impose such penalty, pension at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement if otherwise he was entitled to such pension on superannuation on that date.*
> *2) Whenever in the case of a bank employee the Competent Authority passes an order (whether original, appellate or in exercise of power of review) awarding a pension less than the full compensation pension*

admissible under these regulations, the Board of Directors shall be consulted before such order is passed.
3) *A pension granted or awarded under sub-regulation (1) or, as the case may be, under sub-regulation (2), shall not be less than the amount of rupees three hundred and seventy five per mensem.*

15. On perusal of the said regulations, Regulation 32 states that Premature Retirement Pension may be granted to an employee who has rendered minimum ten years of service whereas the petitioner, herein, has rendered 34 years of service which is not in dispute. It further says that Premature Retirement Pension may be granted to an employee who retires from service on account of orders of the Bank to retire prematurely in the public interest or for any other reason specified in service regulations or settlement, if otherwise he is entitled to such pension on superannuation on that date. As per the aforesaid regulation, the pre-condition is, the bank officer has to be compulsorily retired in the public interest, whereas, in case of the petitioner it is evident from his retirement order dated 27.09.2004 that the petitioner was compulsorily retired in the public interest. Therefore, this provision does not distinguish the premature retirement and compulsorily retirement. The intent of the aforesaid regulations pertains to those who were retired in the public interest before completion of service.

16. Learned counsel for the bank further submits that since there was breaking of lockers in the bank wherein the petitioner was manager of the Branch, therefore, keeping in view the responsibility of the petitioner being Manager, he was compulsorily retired in the public interest. At this stage, counsel for the respondent bank has clarified that, that above mentioned incident has nothing to do with the retirement of the petitioner.

17. This court put a query to the counsel for the respondent bank that what was the reason to retire the petitioner in the public interest. The counsel could not reply to the same, thus, it seems that the petitioner was retired in the public interest only after the incident of the locker breaking in the branch wherein the petitioner was a Branch Manager at the relevant time.

18. As stated in the petition by the petitioner that he received a call from the Chief Manager asking him to deposit an amount of ₹10,06,000/- as per the bipartite settlement so that the petitioner would be able to get pension. Accordingly, very same day i.e. on 12.09.2018, the petitioner deposited the amount in the current PF account, however, the same was returned on the same day on the ground that the petitioner was not compulsorily retired, therefore, this pension scheme is not available to him.

19. Mr.Sharma has strongly argued that those officers who retired in public interest either compulsorily or prematurely, they are getting pension benefits whereas it is denied to the petitioner.

20. Learned counsel for the respondent Bank has disputed this fact and submitted that the officers, those at the time of retirement opted for pension, only they are getting pension, whereas, the petitioner accepted the bipartite settlement and received the gratuity and PF amount, therefore, did not opt for pension. Accordingly, the petitioner is not entitled for the same.

21. The fact remains that as per the bipartite settlement, the petitioner received PF and gratuity amount. Thereafter, he deposited an amount of ₹10,06,000/- (bank contribution plus interest) and the same was returned to the petitioner on the same day.

22. It is not in dispute that the petitioner rendered service of 34 years and attained the age of 55 years on the day of retirement in public interest. As per the circular, the minimum service required is 10 years and 55 years.

23. Thus, the petitioner qualified for both the conditions. Moreover, counsel for the respondent failed to satisfy this court, what was the occasion to retire the petitioner in public interest. If there was no ground in that case, the petitioner is entitled for all retiral benefits.

24. Since the respondent bank returned an amount of ₹10,06,000/- to the petitioner on 12.09.2018, therefore, the petitioner is directed to deposit the said amount with interest @ 7.5% from 12.09.2018 till the date of deposit and thereafter the respondent bank is directed to release his retiral benefits and arrears within four weeks.

25. In view of above discussion, the petition is allowed and disposed of.

26. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

AUGUST 01, 2019
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