07.09.2022
DL-136
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18842 of 2019

Khokon Chandra Bag
Vs.
The Punjab National Bank & Ors.

Mr. Swapan Kumar Nandi,
Mr. S. N. Chattopadhyay,
Mr. Debjyoti Ghosh
....for the petitioner.

Mr. R. N. Majumder,
Mr. S. M. Obaidullah
....for the respondents/Bank.

The grievance of the writ petitioner at present relates to the impugned order dated September 28, 2016 passed by the Chief Manager, United Bank of India which has merged with Punjab National Bank (PNB) during the pendency of the writ petition. The writ petitioner restricts his claim primarily to prayer (d) of the writ petition, being WPA 18842 of 2019. The writ petitioner claims that he was suspended with effect from December 14, 2009 since a disciplinary action was contemplated against him. The disciplinary proceedings culminated into a final order dated March 31, 2016 resulting in the imposition of gross penalty of compulsory retirement.

By the suspension order dated December 14, 2009, the writ petitioner was not allowed to enter the bank premises except for the following purposes:

(a) for drawing subsistence allowance,

(b) for operating his own account,

(c) for attending call of the bank.

The undisputed facts in the writ petition is that by a bank's Circular dated August 16, 2010, a further option was given to the employees to join pension scheme under the United Bank of India (Employees') Pension Regulations, 1995. Clause 5 of the said circular restricted the date of submission of the option form for such pension to October 14, 2010.

Mr. Nandi, learned counsel, appearing for the writ petitioner submits that during the period of suspension, the writ petition had very limited access to the bank. An option was given to its other employees to shift from Contributory Provident Fund (CPF) to General Provident Fund (GPF) Scheme but the petitioner was unaware of the same.

The petitioner could not submit the option form within the stipulated period since he was not aware of the same as he had very limited access of entry to the Branch/Office during the period of suspension.

He further submits, that the option form was received by the writ petitioner on October 27, 2010, after the expiry of time stipulated for submission of the same on October 14, 2010. The option was exercised on October 29, 2010 along with a covering letter of the same date. The said representation/ covering letter of the writ petitioner along with the form was accepted by the bank on October 29, 2010.

Admittedly, no reply was given to the said application of the petitioner by the bank till September 28, 2016. The contention of the petitioner is that he went to the bank on October, 27, 2010 and received the form on the same date. The fact that the option form was accepted by the bank with their stamp and signature of the bank's officer on October 29, 2010, remained uncontroverted.

The petitioner again made a representation on September 23, 2016 for consideration of his prayer for granting of pension by converting his fund to GPF. Finally, the 2016 representation was rejected by a cryptic impugned order dated September 28, 2016.

By the impugned order, the petitioner was informed that since he was a "non-optee" for pension, he was not eligible for staff pension benefit under the United Bank of India (Employees) Pension Regulations, 1995.

Having considered the rival submissions of the parties and materials placed on record, this Court finds

i) that the prayer for option of exercising pension was made by the writ petitioner on October 29, 2010 and the same has been accepted by the bank as a special case under consideration by the HO. The said noting appears at **page 39**, **Annexure – ‘P5’** of the writ petition. An officer of the bank has put his signature on the option form and the same has also been stamped on behalf of United Bank of India, at present PNB.

ii) Since the statements of the writ petitioner in his covering letter for exercising the option for pension on October 29, 2010 remained uncontroverted by the bank, this Court has no reason to disbelieve the statements made therein. It transpires from the said prayer of the writ petitioner that he was handed over the pension form on October 27, 2010 when he went to the branch after expiry of the last date to exercise the option on October 14, 2010.

iii) The reason for not being able to exercise the option by October 14, 2010 was that the same was not handed over to the writ petitioner by the concerned officer of the bank within time.

iv) The petitioner’s prayer had been accepted as a special case by the bank considering the fact that the option form was not handed over to the petitioner within the stipulated time.

v) The respondents/bank also failed to respond to the petitioner’s prayer of October 29, 2010.

vi) Having accepted the petitioner’s case as a special one, the Chief Manager of United

Bank of India at present PNB cannot, now by the impugned order dated September 28, 2016, decline the petitioner's prayer for staff pension/benefits for being a "non-optee" of the pension form.

vii) Had the petitioner been responsible for not exercising the option within the stipulated period, the prayer for exercising option would not have been accepted by the bank as a special case on October 29, 2010.

In the light of the discussions above, this Court quashes and/or cancel the impugned order dated September 28, 2016, vide Ref No. Staff Pension/SPF-19846/1872/16.

The Chief Manager is directed to consider the petitioner's representation dated September 23, 2016 within a period four weeks from date in the light of the findings made by this Court and also in the light of the fact that the impugned order dated September 28, 2016 is quashed.

The writ petition, being **WPA 18842 of 2019**, is **allowed** to the limited extent as the other prayers in the writ petition are dismissed as not pressed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(**Lapita Banerji, J.**)