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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

CWP-18212-2021
Date of Decision: 26.05.2022

Vinod Kumar Rajput

..... Petitioner

Versus

Punjab National Bank and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Umesh Aggarwal, Advocate,
for the petitioner.

Mr. Saurav Verma, Advocate, and
Mr. Akash Soni, Advocate,
for the respondent-PNB.

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HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, prayer of the petitioner is for the release of his pension, which was due to him, but has not been released to him by the respondent-Bank, since November, 2007, only on the ground that the petitioner did not submit the Life Certificate with the respondent-Bank, so as to ensure that the pension is being sent to the rightful holder, i.e. the petitioner.

As per the facts mentioned in the petition, the petitioner retired from the services of the respondent-Punjab National Bank on 11.01.2011, after which date, his pension was fixed by the respondents who then started crediting the same in his bank account. Though at the time of receiving the pension, the petitioner was living in Amritsar, but thereafter in October, 2007, the petitioner shifted to Delhi and as pension was being credited to his bank account situated at Amritsar, therefore, the petitioner was under the impression that his pension is being deposited regularly in the said bank account, but actually due to the non-submission of the Life Certificate by the petitioner, his pension was stopped by the respondent-Bank, since November, 2007 onwards.

According to the petitioner, he came to know about the said fact in December, 2020, when he was informed that due to the non-submission of the Life Certificate by him with the respondent-Bank, his pension was stopped by the respondent-Bank and the petitioner was asked to submit a fresh Life Certificate with the respondent-Bank, which Certificate was duly submitted by the petitioner on 15.01.2021. Thereafter, the petitioner kept on waiting for the release of his pension along with arrears by the respondent-Bank, but to his surprise, the said amount was not released by the respondent-Bank. As the pension of the petitioner was not released by the respondent-Bank, therefore, the petitioner filed the present petition seeking release of his pension, which has been withheld by the respondents, since November, 2007 onwards.

After notice of motion, the respondents have appeared and have filed the reply, wherein it has been mentioned that the present petition has been filed by the petitioner after a delay of fourteen years, seeking restoration of his pensionary benefits, but as the pension is to be given subject to the future good conduct and the petitioner failed to submit an affidavit that he has not been convicted by any competent Court of law for any offence after his retirement, therefore, prayer of the petitioner for release of the pension may kindly be declined. Learned counsel for the respondents submits that on the ground of delay itself, said claim of the petitioner for release of the pension along with arrears is liable to be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, there is no dispute that the petitioner was a pensioner, who was receiving pension from the respondent-Bank after his retirement and he has received the said pension, since the year 2001 till October, 2007. The said pension was only stopped by the respondent-Bank because no Life Certificate was submitted by the petitioner after the year 2007, which the respondent-Bank required to ensure that the petitioner is alive to receive the pension, for which he was entitled for. The said act of the respondents is only a precautionary measure taken by them, so as to ensure that the pensioner, i.e. the petitioner, to whom the pension is being granted, is alive and the said pension is being credited in the account of the petitioner only, so that he can use it for his own purpose. The pension was not stopped because of any ineligibility being suffered by the petitioner. That being so, it can be safely said that the non-deposit of the pension in bank account of the petitioner and retaining of the said amount by the respondent-Bank was only as a custodian of the said amount on the behalf of the petitioner, in case the petitioner claims the said pension on any future date by the respondent-Bank.

Further from the reply, the only reason mentioned by the respondents to withhold the pension of the petitioner is non-submission of the Life Certificate by him. Concededly, the said Life Certificate has been submitted by the petitioner in January, 2021 with the respondent-Bank.

After the said date, there was no impediment in releasing of the pension of the petitioner and the respondent-Bank, being the custodian, should have released the pension along with the arrears to the petitioner after the submission of the Life Certificate by the petitioner as the entitlement of the petitioner for the said pension was never in dispute at any given point of time.

Though the entitlement of the petitioner is not being disputed here, but the release of pension is being contested on the ground that the petitioner cannot claim his pension after a period of fourteen years.

Learned counsel for the respondents has cited various judgments passed by the Supreme Court of India, being **Civil Appeal No.10251 of 2014**, titled as ***"Asger Ibrahim Amin Vs. Life Insurance Corporation of India"***, decided on 12.10.2015, **Civil Appeal No.9644 of 2013**, titled as ***"Bharat Sanchar Nigam Ltd. and another Vs. S.K. Bhatnagar and others"***, decided on 24.10.2013 and **Civil Appeal No.274 of 2007**, titled as ***"Shiv Dass Vs. Union of India and others"***, decided on 18.01.2007, to argue that the claim of the petitioner for the grant of pension along with arrears be declined.

The judgments, which have been cited by learned counsel for the respondents, are not applicable in the facts and circumstances of the present case, as the facts in the present case are entirely different as compared to the facts in the judgments being cited by learned counsel for the respondents.

Rather, the Hon'ble Supreme Court of India while passing judgment in **Civil Appeal No.4100 of 2022**, titled as ***"Sh. M.L. Patil (Dead) Through LRs. Vs. State of Goa and another"***, decided on

20.05.2022, held that as far as the payment of the pension is concerned, the same is a continuous cause of action. The relevant paragraph No.3 of the said judgment is as under:-

> *" x - x - x*
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> *3. Having heard Shri Rahul Gupta, learned counsel appearing on behalf of the appellant and Shri Ravindra Lokhande, learned counsel appearing on behalf of the respondent State of Goa and considering the fact that even by the impugned judgment and order, the High Court has held that action of the State Government in requiring the original petitioners to retire at the age of 58 years or not permitting them to continue in their service upto the age of 60 years is illegal and null and void, we are of the view that the High Court has erred in observing that the appellant will not be entitled to any arrears of pension and the pension at the revised rates will become payable only from 1st January, 2020. As such, the High Court may be right and/or justified in denying any salary for the period of two extra years to the writ petitioners if they would have continued in service, on the ground of delay. However, as far as the pension is concerned, it is a continuous cause of action. There is no justification at all for denying the arrears of pension as if they would have been retired/superannuated at the age of 60 years. There is no justification at all by the High Court to deny the pension at the revised rates and payable only from 1st January, 2020. Under the circumstances, the impugned judgment and order passed by the High Court is required to be modified to the aforesaid extent.*
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> *x - x - x"*

Keeping in view the above, the ground of delay being raised by the respondents to deny the claim of the petitioner, as raised in the present petition, cannot be accepted.

Further, once the entitlement of the petitioner for the grant of pension to him is not being disputed by the respondents, the only question which remains to be decided is whether the pension could be forfeited by the respondents for all times only due to non-submission of Life Certificate by the petitioner with the respondent-Bank. The Life Certificate is needed to ensure that the pension is being given to the rightful owner, i.e. the petitioner in the present case. The pension, which was withheld by the respondents for the said purpose in the year 2007, can only be treated to have been retained by the respondent-Bank as a custodian on behalf of the petitioner, in case he claims the said pension at any given point of time in future, after completing the formalities. The custodian, i.e. the respondent-Bank, cannot deny the release of the amount, for which the petitioner was entitled and the Bank continues to be a custodian only and has an obligation to release the amount, when the same is demanded by him. Therefore, the judgments which have been cited by learned counsel for the respondents cannot come to their rescue so as to decline the claim of the petitioner for release of his pension along with arrears to him.

Further, learned counsel for the respondents submits that the arrears of the pension be restricted keeping in view the delay of fourteen years in filing the present petition. The arrears, for which the claimant becomes entitled for on the basis of the adjudication of an issue, cannot be restricted with regard to an amount on account of delay which was being kept by the respondent-Bank as a custodian on behalf of the petitioner. In the present case, the eligibility of the petitioner was never in dispute at any given point of time, and even as of now, the situation remains the same.

Once the respondent-Bank is to be treated as a custodian of the amount, which was being kept by them so as to ensure that the said amount is released to the rightful owner, i.e. the petitioner, the petitioner cannot be denied the grant of benefit of arrears of pension to him.

Keeping in view the above, the present petition is allowed and the respondent-Bank is directed to release the pension of the petitioner, subject to his furnishing fresh Life Certificate, which should also include the affidavit regarding the fact that there was no disqualification suffered by him during the period when the pension was stopped by the respondent-Bank, i.e. starting from November, 2007 till date. In case, such Certificate along with the affidavit is submitted by the petitioner with the respondent-Bank, the pension be released to him within a period of one month from the date of receipt of such Certificate along with the affidavit.

It is made clear that in case at any given point of time, the said affidavit of the petitioner is found to be incorrect, the amount so being paid to the petitioner, will be recovered from him along with the interest/penal interest, as the case may be.

26.05.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes

2. Whether reportable : No